

The Mitigating Circumstances System and its Impact on the Assessment of Punishment and Compensation: A Comparative Study between Islamic Jurisprudence and Jordanian Law

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ABSTRACT

The circumstances of crime are among the innovations of criminal jurisprudence. Its importance lies in the fact that it is one of the main determinants of the type and extent of punishment, researches proved that the circumstances surrounding the crime have a major role in determining the gravity of the crime and the seriousness of the offender. A person who has become accustomed to crime and repeated this cannot be treated as an accidental criminal. The Islamic Sharia was keen to distinguish between the two, and it was tightened with the first and permitted the judge to reduce the second if the judge considers that the interest of the society lies in that. Likewise, laws did, including the Jordanian Penal Code, which adopted a system of mitigating circumstances in the materials with the numbers (95) to (100).

Keywords: Extenuating Circumstances, Suspicion, Mitigating Excuses.

INTRODUCTION

The punitive philosophy was based not long ago - on the need to apply the penalty to the perpetrator of the crime, because this is one of the requirements of justice, and imposed by the need to emphasize the society's rejection of criminal behavior, the prescribed punishment is the inevitable answer to the crime, as the punitive philosophy at that stage was based on the fact that the punishment has the character of retribution and revenge (Gharaibeh et al., 2024). Therefore, it has been stained with the so-called (exclusionary function) of punishment, which believes that the community's struggle against crime can only be by excluding the criminal from society as a whole, Hence the importance of the death penalty, as well as custodial punishments especially long-term or perpetual punishments, because it is such punishments that lead to this function, which is to remove the convict from society (Alazzam et al., 2022). Due to the development of criminal sciences and the emergence of modern schools in determining the philosophy behind punishment, in addition to the increasing and growing voices calling for respect for human rights and looking at the criminal not as a criminal who must be punished, but as a patient who must be treated, as well as the failure of old punitive policies to achieve the desired goals of punishment, such as preventing crime or reducing its occurrence, all of this paved the way for the emergence of new theories focused on the criminal and not the crime (Shakhatreh et al., 2023).

Bantam says: "The punishment, even if it is the same in name, differs in fact according to gender, age, status, wealth, and other cases, for example, if he was punished for beating with a fine, the punishment for the rich would be in vain, and for the poor unjustly, as well as punishment if it violates dignity by nature is harsh for those of status, and does not infect the class below that with anything, and imprisonment is a ruin for the shop, and the

execution of an old man, and an eternal shame for women, and there is no such thing as it. Something of that for other people."

Thus, research, studies and theories began to follow in this aspect, which led to the overturning of old concepts and the issue of reforming the offender became the first priority that sits at the top of the objectives and justifications of punishment, and every punishment that does not respect this priority is a punishment that is completely rejected in principle.

In light of this great development of criminal and punitive studies, legal scholars began to search for the most effective means to make the punishment appropriate to the personality of the criminal and the motives behind his commission of the crime, so they decided that it is illogical that the same punishment applies to a person who commits a murder motivated by theft, and a person who commits a murder against his wife as a result of his emotional and psychological impulses due to his surprise to his wife while she is red-handed in the crime of infidelity, and the crime here is the result of the victim's fault and not the fault of the offender. Accordingly, he must enjoy mitigating conditions and not be equal to the person who is killed motivated by theft and this is on the part of the penal part, but on the part of the civil part, the injured person is legally entitled to claim compensation for the damage he suffered as a result of the crime.

The Problem of the Study

After the previous introduction, we can conclude the problem of the study through the following questions, which are expected to be answered by this study:

- Q1:** What is the concept of the mitigating circumstances system in modern legal studies and how did it arise?
- Q2:** What is the concept of the mitigating circumstances system in Islamic law and the evidence of its legitimacy?
- Q3:** What are the types of mitigating circumstances in positive law and Islamic law?
- Q4:** What is the legal basis for holding the perpetrator accountable for compensation to the victim behind the commission of the crime?
- Q5:** To what extent do mitigating circumstances affect the assessment of compensation?

The Importance of the Study

The importance of the study lies in the following:

1. Answer the questions that were asked in the study problem.
2. Showing the richness of Islamic Sharia and its inclusion of all the major rules, principles and theories on which modern criminal jurisprudence is based.
3. It adds a new contribution, needed by scholars and those interested, by presenting the subject from the legal side, and not only presenting the subject from its positive legal aspects.

RESEARCH METHODOLOGY

The methods used in this research are summarized as follows:

First: The inductive approach, by extrapolating the texts contained in the subject from the Book of God Almighty, the Sunnah of the Prophet (ﷺ), the books of jurisprudence and biography, as well as modern books specialized in this subject, whether legal or jurisprudential.

Second: The deductive approach, based on analyzing the texts and trying to identify their causes, and deriving provisions consistent with the operative text and its goals and objectives.

Research Plan

The research included an introduction, a conclusion and three sections.

Introduction: It included an introduction, the problem of the study, the importance of the study, previous studies, research methodology, and research plan.

The First Topic: the nature of mitigating circumstances, and included three demands:

1. The first requirement: the definition of extenuating circumstances idiomatically.
2. The second requirement: the emergence of the mitigating circumstances system in legal studies.
3. The third requirement: the legal basis for compensation for the damage arising from the crime.

The second topic: mitigating circumstances in Islamic criminal legislation: It included four demands:

1. The first requirement: Evidence of the legitimacy of mitigating circumstances from the Qur'an:
2. The second requirement: evidence of the legitimacy of mitigating circumstances from the Sunnah of the Prophet.
3. The third requirement: evidence of the legitimacy of mitigating circumstances from the districts of the Companions:

4. Fourth Requirement: Evidence of the legality of reasonably mitigating circumstances:

The Third Topic: types of mitigating circumstances and their impact on the assessment of compensation and included three demands:

1. The first requirement: the types of mitigating circumstances in the law.
2. The second requirement: the types of mitigating circumstances in Islamic jurisprudence.
3. The third requirement: the extent of the effect of compensation under extenuating circumstances.

The conclusion included the most prominent findings and recommendations.

The first topic: what are the mitigating circumstances in the crime

The circumstances of the crime are one of the innovations of criminal jurisprudence, and its importance lies in being one of the most important basic determinants of the type and amount of punishment.

Before talking about the emergence of this system and its divisions, we must define what is meant by this term.

The first requirement: the definition of extenuating circumstances idiomatically

Legal scholars have provided many definitions of the term mitigating circumstances, and despite the multiplicity of forms of formulation for it, the auditor in these definitions often finds them - united by one common denominator, which is their effective impact on reducing the penalty or canceling it altogether.

Some researchers have defined it by saying: "They are secondary or ancillary elements that do not enter into the legal composition of the crime, but only affect its gravity or the amount of punishment prescribed for it."

Some defined them as: incidental facts determined by the judge in each crime separately and whose legal effect on the punishment to be applied is assessed."

Another said that what is meant by the mitigating circumstances system is that judicial system that allows the judge not to impose on the offender the penalty prescribed by law for the incident, but a slightly or a lot lighter penalty for the circumstances surrounding that incident (Aljabali et al., 2025).

By looking at the vocabulary of these definitions, we can conclude the following:

1. Extenuating circumstances are elements or facts related to the crime and the nature of the offender and not related to the composition of the criminal act.
2. Extenuating circumstances have an effective effect that undermines the gravity of the crime and reduces the seriousness of the offender.
3. The judge is the one who invokes mitigating circumstances because of his broad authority in this area.
4. Extenuating circumstances relating to the crime may be reduced to the lowest degree of punishment determined by the authorized judge.

The second requirement: the emergence of the mitigating circumstances system in legal studies

Extenuating circumstances are a relatively recent legal system, which has found a place for its application in international penal laws since the last century, and since then until the present time - many studies about it, which led to the development of this system, so its features became clear and its rules were established in various contemporary penal legislation.

The basis for assessing mitigating circumstances in different legislations is to reconcile the notion of benefit with the notion of justice in relation to punishment (Zaqeeba, 2024).

The first to decide the system of mitigating circumstances in man-made legislation is the French legislator in 1810, and before this date the penalty was an absolute arbitral authority in the hands of the judge, although this authority receded a little bit when the judge had to apply a specific penalty stipulated in the law, but he did not have any discretionary power through which he could take into account the circumstances of the offender and the circumstances that accompanied the commission of the crime.

Despite the reform achieved by the law of 1810 in the system of punitive thought, it remained

Because of the defects that accompanied the punitive system that prevailed at the time, the French legislator intervened in 1810 and created a system of legal penalties that are placed within two minimum and maximum limits and gave the judge the authority to choose the appropriate punishment within these two limits.

Deficient and unable to solve many of the problems encountered by the judge when estimating the penalty, as some penalties are more severe than they should and the crime committed deserves a lighter penalty than the legal minimum prescribed for this crime, and this has been one of the reasons for the jury's fraud to evade the application of such penalties, so they are forced to rule acquittal, sacrificing considerations of legal justice in The way to achieve realistic justice in their eyes, influenced by the human affection towards the perpetrator of the crime, who was surrounded by certain circumstances when he committed his crime (Jarrah et al., 2025).

As a result of what we mentioned, the French legislator intervened again in 1823 and made an amendment to the law under which he decided to transfer the authority to estimate mitigating circumstances from the jury to the court, and the judge also granted the authority to rule on misdemeanor penalties for some criminal offenses such as the killing of the mother of her newborn and such as some thefts described, and the law also allowed to reduce the punishment for some types of criminals such as homeless, for example, but all these legal amendments did not achieve the desired purpose, which prompted the legislator finally to issue a new law The year 1832 includes

a general rule that allows the judge to reduce the penalties to less than the minimum prescribed for all types of crimes, including felonies, misdemeanors and offenses (Dahiyat, 2011).

The new system of mitigating circumstances has overcome many of the difficulties that were encountered by the judiciary when assessing the penalty and when applying it, and thus the mitigating circumstances system came to fill the deficiency in the aspect that the legislator cannot predict or stipulate with regard to the circumstances surrounding the crime and the criminal when committing his crime, thus achieving a fuller uniqueness of punishment.

Since then, the legislative systems in other countries began to adopt the system of mitigating circumstances, so Belgium, Italy and Germany introduced this system into their legislation, as did some Arab countries, so the system of mitigating circumstances was taken by the Egyptian Penal Code, as well as the Syrian law, as well as the Lebanese legislator, who included within the provisions of the Penal Code provisions related to the mitigating reasons for punishment.

As for the Jordanian law, it has in turn adopted the system of mitigating circumstances and stipulated the principle of (excuse local), i.e. exemption from punishment altogether, in articles 95 and 96 of the Penal Code, and the same law talked about mitigating excuses in articles 97 and 98, while articles 99 and 100, have been allocated by the Jordanian legislator for mitigating reasons.

Third requirement: the legal basis for compensation for the damage arising from the crime

The Jordanian legislator affirmed the obligation not to harm others, and that any act that violates a legal obligation entails a harmful act that constitutes a crime under criminal responsibility and the penalty that entails punishment, or an assault on the right of others or the so-called harmful act under the civil law and the penalty resulting in compensation (Alazzam, 2024).

The harmful act may entail the responsibility of the civil actor without criminal as in work accidents and unfair competition or the harmful act arranges the responsibility of the criminal actor without civil as in the crimes of carrying weapons and traffic violations and some of the crimes, and the impact of the harmful act may meet in the actor civil and criminal responsibilities and this is the focus of our conversation in the research.

If the criminal responsibility meets with the civil, each of them retains its own character, civil liability is not affected by the degree of punishment for the criminal act, and at the same time criminal responsibility is not affected by the amount of compensation under civil liability, and this is confirmed by Article (271) of the Jordanian Civil Code, where it stipulates that "civil liability does not prejudice criminal liability when its strips are available and there is no impact of the penal penalty in determining the scope of civil liability Estimation of the guarantee", but there are exceptional cases in which the impact of responsibility can be Civil criminal liability and the so-called penal rule makes sense of the civilian, and will be clarified later.

The Jordanian legislator affirmed to everyone affected by the commission of a crime the right to resort to the judiciary to claim compensation for the damage (Garaibeh, 2024).

The question that arises is, what is the source of the perpetrator's obligation to claim compensation towards the victim or the victim of the crime?

It is certain that tort liability is the basis and legal source for the possibility of holding the actor accountable for compensation for any act that constitutes a crime under the text of the law in compliance with the rule of no crime and no punishment except by a stipulation, or contrary to a legal rule based on a rule in Islamic jurisprudence "no harm or damage and the damage is removed", also "every damage to others obliges the perpetrator, even if not distinguished, to guarantee the damage (Peratis, 2004).

1-Error

"No one shall be sentenced to a penalty unless he has consciously and willingly committed the act.

"Consciousness was described as the ability to understand the act and its nature and the implications of any perception, whether sensory or mental, and willingness meant freedom of choice with consciousness to carry out an act. Those elements met only with a distinct person who was conscious and aware of the acts to which they were presented, and those elements met. (Consciousness and will) constitutes a so-called error. The error is a deviation in a person's behaviour while being aware of that deviation (Alkhalwaldeh et al., 2025).

2-Damage

Criminal liability, followed by civil liability, must result in damage. The case is not accepted without damage to the victim. The person responsible for establishing the injury is the victim by all means of proof, considering the damage to be a material fact.

The damage may be material damage, which affects the person's body and property, i.e. the financial property of the person. damage and loss of profits. or moral damage to a person's liberty, presentation, honour, reputation, social status or financial consideration and may be guaranteed in the event of moral damage caused by the death of the injured person by spouses or close relatives of the family; They are not entitled to security for moral harm unless their value is determined by a final agreement or judgement (Dahiyat, 2016).

3-Causal Relationship

Causal relationship is a complement to the cornerstone of error and damage. Causal relationship links the fault committed by the perpetrator to the victim's injury, resulting in damage as a result of the error.

With regard to our discussion of the principle of compensation for crimes, the dismissal of the Criminal Court's judgement, in particular the conviction, has demonstrated a causal link between error and injury (Mansour & Mansour, 2024).

Second: Mitigating Circumstances in Islamic Criminal Legislation:

The term mitigating circumstances is not included in the writings of ancient Islamic jurisprudence scholars and, not surprisingly, the term has recently emerged in positive criminal legislation. But the contents of this term were never absent from their blogs. In fact, the Islamic Criminal Jurisprudence Auditor finds that ancient jurists have spoken more generally and comprehensively than mitigating circumstances, which has been termed suspicions in Islamic criminal jurisprudence.

Although sharia jurisprudence does not contain a specific provision for the term suspicions, they have overstated the facts that caused the suspicions to reduce the sentence to the lowest level and sometimes abolish it in college (Al-Sharman et al., 2025).

First Requirement: Evidence of Legality of Mitigating Circumstances of the Koran:

1 - The Almighty says: "Adultery and adultery have led to each and every one of them a hundred times, and it does not take you away from them Believers".

Conclusion: The generous verse mentioned the punishment of adultery of 100 lashes and we know that this provision is for the unvaccinated, because the judgment for the immune is the constant stoning of the prophetic year. God commuted the punishment to the unvaccinated, even though the crime was the same, but since the immune was able to do so, he did not commit adultery, which was suited to the aggravation of punishment other than the unvaccinated offence.

2. God Almighty said: Whoever is safe is written on you by the stories in the killing free and worshipping by slavery and female.

Evidentiary point: The dignified verse indicates that the death must be visas, but provided that the murder is intentional, if someone commits the murder wrongly, it is with this excuse worthy of mitigation for saying the Almighty: "And it was not a believer that he would kill a faithful to a fault or a fault of fault but they believe it.

Although the crime in both cases resulted in an infallible loss of human life, the circumstances in both crimes required an emphasis on intentional intent and mitigation of the wrongdoer.

3 - God Almighty said: The part of those who fight God will help his messengers to be killed or will be cut off in the earth in the last day, they were greatly tortured. They knew that God forgave Rahim.

Evidence: The verse decides that the punishment for the perpetrator of the crime of warfare and corruption in the land is murder, steel, dismemberment or exile from the land at a detail known to scholars (González-Ruibal & Lane, 2024). But the decent text of this provision is excluded from Tabb and returned before he was able to do so and he was exempt from punishment, because if he's repentant before being able to do it, it's pretend to be faithful repentance. And if it is repented, it appears to be protective of the boundary, because in accepting his repentance, dropping his limit before being able, he desired his repentance and refraining from fighting him and spoiling him. He suited that omission and then there was no need to want it because he was unable to corruption and the warrior.

Second Requirement: Evidence of the Legality of Mitigating Circumstances of the Prophetic Year:

1 – A woman from Juhayna came to the Messenger of Allah (peace and blessings of Allaah be upon him) while she was pregnant from adultery and she said, O Prophet of Allaah, I have hit a hadd punishment and he set it up for me, so the Prophet (peace and blessings of Allaah be upon him) called her guardian and said to him: "Do well to her, and if she gives birth, then take care of her, and he did, and the Prophet (peace and blessings of Allaah be upon him) ordered her to complain about her clothes, then he ordered her to be freezed and then he prayed over her. 'Umar (may Allah be pleased with him) said: "O Prophet of Allah, pray for her when she has committed adultery?" "I have repented if I had divided it among seventy of the people of Medina, and would it have found better repentance than giving itself to Allah, may He be exalted?"

Inference: This talk can be inferred in two ways:

First, the Prophet (e) took into account the condition of the pregnant woman, who had not been sentenced to set up the limit immediately. If he had done so, he would have infringed the fetus's right to life.

The second aspect: the delay in establishing the limit on such women is a reduction in punishment. The delay gives women the opportunity to self-review and, consequently, the possibility of refraining from acknowledging adultery.

2. Say (e): "The persons with bodies were sacked except the border."

Evidentiary point: This is an indication of the mitigation of punishment in the event of disobedience by the people of Fazal and Salah, who are known to be pious. They are not treated in condominium penalties, such as the treatment of leftists and preachers who are known to be habitual offenders.

Here, we note that the physical element of the crime has been verified by the perpetrators of the crime, whether from the debauchery or from the people of Fazal and Salah, but the wise street has ordered the commutation of the punishment from the people of Fazal, in consideration of their preference and standing among the people.

A nation of the apostle of God (e) commanded me to flog her, and if she was a newborn with breath, I feared I would kill her, so I reminded the apostle of God (e) - and he said, "Well done.

Inference: The mother was found guilty of adultery, a crime punishable by 100 lashes from the wise street, but when our master saw Ali (t) Women's vulnerability as a result of their breath has delayed the establishment of a limit on them, given the danger to their lives in this situation, and the Prophet has acknowledged (e) He must do so and commend him, which is proof that Islamic law takes into account the circumstances of the offender's sentence.

The Messenger of Allah (e) has exempted the Father from coercion in the event that he kills his son, even though the general provision contained in the dignified verse is his entry into the whole of the Almighty: "We wrote to them that breath by breath, eye by eye, nose by nose, and ear by ear, and 45." "Whoever is safe is written on you by the stories in the killing of the free, the worshippers by the slave and the feminine by the female." 178 Prophet (e), however, excludes the father from this provision because the father is in love with his child and does not intend to kill him, in addition to the father's authority to discipline his son. This authority creates suspicion in the murder and thus prevents the limitation thereof.

Consequently, the circumstances precipitating the father's killing of his child are one of the reasons for the commutation of the sentence, despite the fact that the crime occurred and the physical element of the loss of the blood-infallible spirit of Adami was achieved.

Third requirement: Evidence of the legality of mitigating circumstances from the accompanying districts:

1-Omar (t) spent in Glman to Hateb Ben Abi with a taste. They stole a man from a decorated man. Omar gave them an admission. He sent to Abdul Rahman Ben Hateb. He said: Oumar said: Oh, many Ben Prayer Go cut their hands off, why do I have them reply Omar and then he says: If it wasn't for God, I knew you were using them and starving them. Even if someone ate what God had forbidden a solution to them, I would cut their hands, and Im Allah would not have fined you, and then he said, "How much did I want you to do?" He said, "In four hundred, Omar said," Go give him eight hundred. "

Inference: Although the element of the crime of physical theft has been achieved, but our master Omar bin Al-Khattab did not establish the limit on these boys because they stole forced to pay hunger for them, and the general rule states that necessities allow prohibitions, and this is what prompted our master Omar to punish Hatab with a penalty of ta'zir fine because of his starvation of his boys, which prompted them to steal.

2-What happened with Omar (may Allah's satisfaction with him) When a woman came her thirsty grandfather (that is, she is about to die from the intensity of thirst), she went on a shepherd and she stalked, so Dad would throw her away but empower her, so she did: "

Evidence: The woman enabled the shepherd to win herself. This is a marginal punishable offence, but because the woman had to save herself from doom, the man empowered herself with an unselected hate it was an exempt circumstance.

Fourth Requirement: Evidence of the Legality of Reasonably Mitigating Circumstances:

Undoubtedly, the conditions of criminals vary from fact to fact. and recent criminal studies have shown that the circumstances surrounding the crime play a significant role in determining the seriousness of the crime and the seriousness of the offender, who used to criminality and repeated it cannot be treated as a criminal by accident. And so the Islamic Shari 'a made sure to differentiate between the two, stressing the former and allowing the judge to mitigate the latter and dismiss him if the judge considers that the interest lies in that (Samara, 2024).

"The amount of duty in the limit of adultery if the adulterer is not immune to one hundred lashes if he is free, and if he is owned, then fifty, because the punishment for the amount of the felony, and the felony increases with the perfection of the offender's condition, and decreases with the decrease in his condition."

Third Theme: Types of Extenuating Conditions

The first requirement: the types of mitigating circumstances in the law.

Extenuating circumstances in the Jordanian Penal Code are divided into two parts:

Section I: Legal excuses These are those excuses expressly stipulated by the law and their presence in the criminal incident entails the necessity of reducing the penalty or exempting it, and its effect applies to all crimes, and article (95) of the Jordanian Penal Code stipulates that "there is no excuse for a crime except in the cases

specified by law". From the text of the article, it is clear that legal excuses are an exception to the general rule and may not be measured or expanded.

Legal excuses are of two types: local excuses and mitigating excuses.

Local excuses: those excuses that require the judge to exempt the offender from punishment altogether despite the fulfillment of all elements of the crime and the availability of conditions of responsibility for it.

For example, as stated in Article 413 of the Jordanian Penal Code, "Any person who commits the crime of concealing stolen items or the crime of concealing persons who participated in the theft provided for in articles 83 and 84 shall be exempt from punishment if he informs the authority about those accomplices before any prosecution, or allows the arrest, even after the initiation of prosecutions, those who know their hiding place."

Mitigating excuses are those that allow the judge to reduce the sentence to the minimum prescribed by law.

For example, article 324 states: "A woman who aborts herself in order to preserve her honour shall benefit from a mitigating excuse, and a person who commits one of the crimes stipulated in articles 322 and 323 to preserve the honour of one of his descendants or female relatives up to the third degree shall benefit from a mitigating excuse."

Section Two: Mitigating Judicial Circumstances: They are those that are left to the judge's discretion and discretion, so that he grants them to whomever he wants from the perpetrators and prevents them from whomever he wants if his diligence performs it.

The Jordanian legislator did not specify mitigating judicial circumstances, contrary to legal excuses, and the reason for this is that these circumstances are too numerous and renewable to be taken into account, and judges differ in their view of them and their opinions vary in their estimation.

The difference between the two sections lies in the fact that the application of legal excuses is mandatory imposed by the force of law, and therefore the mitigation of the penalty when there is a legal excuse is mandatory for the judge cannot diligence in it, and the judge's authority in this case is limited to the reduction of the penalty from its upper limit to the minimum stipulated in the law, unlike the mitigating judicial circumstances, they are not mandatory, but are left to the judge's conviction and discretion, and the judge has great authority to reduce the penalty so that these circumstances enable him From the reduction of the penalty below its minimum.

Second Requirement: Types of Mitigating Circumstances in Islamic Jurisprudence.

In the foregoing, we stated that the term "mitigating circumstances" was not included in the writings of the ancient jurists, but that the contents of this term were present in their writings by talking about suspicions of imposed punishment in total or required to mitigate the original punishment.

These suspicions or circumstances either related to the same offence or to the perpetrator or the victim.

Mitigating circumstances relating to the same offence:

- The likeness of the act: it is called a similar suspicion or suspicion, such as the husband's mistake of his wife divorced three in a number, in this case, a wife who, in the circumstances of dissolution and inviolability, makes no excuse and discourages adultery because there is a suspicion of contract between the spouses and that he does not believe in the inviolability of intercourse between them.
- Likeness in the shop: It is called a judgmental suspicion or a king's suspicion that when the perpetrator makes the act in the shop, he looks at the proven property in it. In order for the King to be suspicious of the perpetrator, he must have strong reasons, such as the fact that the perpetrator mingled with another's money, so that he could not distinguish between them. The use of this money without the other's knowledge has no suspicion of the perpetrator being allowed to do so, and is not considered to be such an allegation; Because a thief, if taken from another person's money without his permission, will no doubt claim to have a right in it or say this thing is mine, which is not difficult for anyone who wants to commit what God has forbidden.
- Mitigating circumstances relating to the perpetrator and the victim.
- The issue of honour killings in adultery:
- Article 340 of the Jordanian Penal Code stipulates that:
- The mitigating excuse benefits from a surprise to his wife, one of his assets, branches or sisters when she wears a crime of adultery or in an unlawful bed, kills her or her wealthy person immediately, kills them together, or assaults one or both of them, resulting in injury, injury, permanent impairment or death.
- The same excuse benefits a wife who was surprised by her husband's adultery or unlawful bedding in the matrimonial home, or who killed or killed her adulterer, or who assaulted one or both of them, resulting in injury, injury, permanent impairment or death.

This issue has been the subject of research and elaboration by the oldest scholars. Their expressions have shown that man must defend his presentation and honour. This is because he must order the knowledge and disregard of the denier, especially since the presentation meets to defend him.

The Issue of Error in the Murder:

Murder is one of the most serious and serious crimes, and this is why the dear book says: For the sake of this, we have written on my Son, Israel, that he who killed a breath is not a breath or is corrupt in the earth Many of them were then in the land of the Prophets.

"The faithful will not remain in the space of his religion unless he is bloodied."

Despite the enormity of the offence, the wise street made a distinction between intentional murder committed by the perpetrator and that caused by the offender's mistake and miscalculation, and stated in the intentional penalty: "You have a life in the stories, it was not a believer who would kill a believer but a fault and who would kill a believer who would liberate a faithful, friendly and peaceful neck into his God It liberates a believing neck from Jehovah, and if it is from the top of your life and between them, it is a rational faith that is handed over to his people, and it is the liberation of the neck of his faith wise.

Point from the two verses: The wise street has taken into account in the legislation of the judgement the perpetrator's condition and the extent to which his criminal intent was achieved when he committed the crime. Since the intent in the intentional offence is appropriate, the aggravation of the penalty other than manslaughter.

In its provisions, the Jordanian Penal Code takes into account the mitigating circumstances associated with the crime of manslaughter and distinguishes it from the punishment of intentional homicide. Article (326) ("Anyone who deliberately kills a human being shall be sentenced to 20 years' hard labour". Article (328) ("Death penalty shall be for intentional killing: If committed with premeditation, he is told: "Murder." "Article 330 states:" Anyone who beats or injures a person with an instrument that does not lead to death or gives him harmful substances. This was never intended to kill him, but the victim died as a result of what occurred. The perpetrator was sentenced to hard labour for a period not less than seven years. Anyone who causes the death of a person by negligence, lack of custody or failure to observe laws and regulations shall be liable to a penalty of six months' to three years' imprisonment.

The Defendant's Record is Free of Criminal Records

The crime may occur sometimes and the offender is not accustomed to crime, and has never committed a crime punishable by law, is this a circumstance that the judge should note when assessing the punishment if the crime is not fatal? This is stated in the text of the Jordanian Penal Code, as it is stated in Article (54) what it states: "The court may, when sentencing a felony or misdemeanor to imprisonment or imprisonment for a period not exceeding one year, order in the judgment decision to suspend the execution of the penalty in accordance with the terms and conditions stipulated in this law, if it deems the morals of the convict, his past, age or the circumstances in which he committed the crime to give rise to the belief that he will not return to violating the law. The judgment shall state the reasons for the suspension of execution, and may make the suspension inclusive of any ancillary penalty and all other criminal consequences of the judgment."

Third Claim: Extent to which Compensation has an Impact under Mitigating Circumstances

We have previously spoken about the impact of compensation on the penal judgement. Although each liability retains its own character, civil liability is closely linked to criminal liability in the award of compensation, Compensation is determined on the basis of the penalty judgement, where the penalty sentence has the force of the judgement. If the conviction is proven, the victim can appeal to the civil court and claim compensation, irrespective of the amount of the sentence and the granting of the accused's mitigating circumstances.

If the offence is committed as a fault, that is, the perpetrator was not the object of the result but rather the intention of the act, in this case if the conviction is proven, the victim only has to claim compensation regardless of the amount of the sentence, although there are also mitigating circumstances.

The Criminal Court may order the acquittal because the element of the error, such as the doctor's fault, is the most careful person or because the act is not attributed to the accused. in this case and in relation to the civil incidence, the aggrieved person is not entitled to claim compensation for the absence of a element of liability, the consequence of which is liability, If the sentence of acquittal is handed down because there is no impediment to punishment or because the criminal case is no longer heard or the act is not a criminal offence In this case, the consideration of compensation is not precluded and may be considered and assessed by the civil judge based on the amount of damage suffered.

One of the most important features of the independence of the criminal judgement and the retention of its special character from the civil aspect, when the general right of amnesty is lost, there is no effect on the civil division of the amnesty. The aggrieved person can claim his right to compensation before the civil court. (48) of the Jordanian Penal Code, which stipulates that "the reasons for the termination, prohibition or suspension of penal provisions shall not affect civil obligations that must remain subject to the provisions of rights".

In any event that has passed previously, the civil action remains heard despite the expiration of its hearing and arising out of an offence. The guarantee action shall not be heard except by refraining from hearing the criminal

case. Hearing the criminal case shall prevent the loss of the civil action. However, the guarantee shall not be heard in all cases by the expiration of fifteen years from the date of the act.

The foregoing shows that compensation by mitigating excuse, especially after the offence has been established, does not affect the perpetrator. The mitigating circumstances have resulted in a reduction of the penalty only. The penalty for compensation matters is the conviction or acquittal, not the amount of the penalty.

CONCLUSION TOP SEARCH RESULTS:

1. In recent criminal studies, the issue of the offender's reform has become the first priority at the top of the aims and justifications of punishment.
2. Jurists have begun to seek the most effective means to make the punishment appropriate for the criminal's personality and the motives behind the commission of the crime.
3. Most penal laws are unanimous that criminal liability is the existence of the elements of perception and will. human rights ", the first of which qualifies the human person to understand and appreciate the consequences of his acts, the will means shining my mind's activity towards achieving a certain thing. s self-orientation towards action or omission, Consequently, when it is established that human beings are able to direct their destination, without impairing or diminishing their execution, the consequences of their will shall be questioned in part.
4. The mitigating circumstances regime is one of the most important determinants of the sentences to be imposed on the crime and its location.
5. The Islamic Shari 'a preceded all recent criminal studies and research on this subject and established more general and comprehensive than the findings of positive criminal studies.
6. The offender's responsibility for the offence is to compensate for the injury to the victim on the basis of tort liability by having its legal elements available from the element of error, where the elements of cognition and will, the element of damage and the causal link between error and injury are available.
7. Mitigating excuses after the penalty judgement has been established do not affect the assessment of compensation. The mitigating circumstances are only a reduction in the degree of punishment. The civil judge's statement after the sentence was handed down is the gravity of the damage inflicted on the victim and his heirs, not the gravity of the penalty.
8. 8-The aggrieved person may file a claim for damages before the Criminal Court in conjunction with the criminal case, requesting that he claim a personal right, or apply directly to the Civil Court.

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