



Legal Compensation (National and International) for the Missing as a Result of Military Operations and Terrorist Offences by Da'esh

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The obligation to compensate victims of terrorism acts is a national and international legal obligation in accordance to its jurisdiction. The State is obligated to the tasks that individuals are unable to do, including those of crime control and the protection of individuals. In particular, the State has monopolised the right of punishment if it fails to prevent terrorist offences and individuals were injured as a result of its failure in the procedures which were supposed to be undertaken. The State is obliged to pay compensation to those affected by these offences and the victims and their families have the right to claim compensation for the damage they have sustained. The national legal obligation pays compensation to victims of terrorism, without prejudice to the extension of legal liability to States and international entities (non-State actors) fighting terrorism as an international crime which requires to be fought against and the punishment of the perpetrators.

Keywords: Military Operations and Terrorist Offences, Legal Compensation, Missing Persons.

Introduction

Terrorism is one of the most serious threats to society at the present time. It has become a serious phenomenon wherein all kinds of offences are practiced. This is reflected in the rate of offences that have left victims and terrorised innocent people in their lives and property (Wralstad & James, 2019), as well as the disruption of economic and social activity because of fear, panic and mistrust between individuals and States (Wralstad & James, 2019; Khusrav & Todd, 2019). In turn, it



affects their relations, and there is no doubt that terrorist activities are contrary with the principles of international law and the United Nations Charter for the coexistence and the peaceful settlement of disputes, which obliges the international community (States and organisations) to fight terrorism by all means and manners. In this context, what follows these military operations is victims unrelated to these acts, which necessitates the mobilisation of international responsibility to compensate these victims by following the law which stipulates the manner and procedures of compensation taken in each country, as well as the compensation resulting from international responsibility.

The problem of compensation for victims of terrorist acts has become a concern of many and has been addressed by specialists in international law, criminal law and administrative law. Furthermore, it is important for governments to pay reparations in the cases of insolvency or a lack of knowledge (Ibrahim, 2019). The research is based on the State assuming the responsibility to compensate the families of the missing as a result of the military operations and terrorist offences of Da'esh. In addition, the States assuming participation in the international coalition and the United Nations in the responsibility of compensating the victims, as victims of international offences.

The acts of violence and terrorism are no longer national crimes for the national judiciary only, but have become an international phenomenon, a cross-border targeting the international community in general, and must be examined within the framework of national and international law. The problem is, to what extent the State bears, as well as states and the United Nations for the responsibility of compensating the missing for the military operations and terrorist crimes of Da'esh? The research aims to clarify the subject of the State's responsibility to compensate the victims of the terrorist offences of Da'esh, by identifying how the national legislator treats the damage caused by terrorism, and then how the international community is responsible for compensating the victims of international terrorist acts.

For our study, several objectives are summarised in the following:

1. Try to analyse the responsibility subject in general and especially, risk-based in order to understand the subject of State responsibility for acts of violence and terrorism.
2. Knowing the purpose of the State through the exercise of this responsibility.
3. Clarify the public interest of the State from the pursuit of this responsibility and compensate for the loss from the damage resulting therefrom.
4. Analysing the international responsibility of the international community resulting from international terrorist acts.



The analytical approach was adopted in the processing of legal texts because it is proportional to the subject under study. For the purpose of the problematic raised problem, this study was divided into an introduction, two sections and a conclusion, as follows:

Legal Compensation for Missing Persons under National Law

The definition of missing in the language is for analysing the procedures of loss cases and how to arrange for the compensation of missing persons caused by military and terrorist actions. In addition, to distinguish the missing from other legal provisions, and thus, the State liability for compensation, according to the following (Roderick JA & Donald, 2019):

Definition of the Missing and Distinguishing it from Other Concepts

The missing is known in the language as "loss of something loses him lost and missing, it is missing, depreciated and lost by God," (Roderick JA & Donald, 2019), the missing is lost and destitute, said: "lost something, lost, missed and the loss of women" whose husband or child dies (Desjarlais, 2016)". The missing person's name of the living is considered the first life, but hidden effect as dead as his money, the missing person appears in an anxiety state between the existence of life or death, which is not alive at all and dead in all respects (Mary A. & Lonny, 2015). In terms of distinguishing the missing from other of legal provisions, there are two similar cases in the missing which are 'absent' and 'prisoner', as follows:

Distinguish the Missing from the Absent

The absentee means of life for non-absence or outside, while the missing person is unknown alive or dead without requiring ignorance of the place (Elena & Marek, 2019). Noting the use of 'the absentee' term for 'the missing person', the terms of the missing with the absentee interfered in the legal texts that mentioned to define the missing have found that the missing is absent necessarily, but not necessarily that each absentee is absent because the absent word is more general than the missing (John C., et al., 2016).

It is noted that the text of Article 85 of the Minors' Welfare law defines the absentee as "the person who left Iraq" and means that by his will he left. It would have been better if the text was comprehensive for those forced to leave Iraq or the text is "Outside Iraq" (Silverman & Munqith, 2018).



Distinguish the Missing from the Prisoner

The prisoner is a fighter who belongs to one of the conflict parties and whom is arrested by the other party, which is known as life. Furthermore, it is possible that the prisoner becomes 'missing' if no news of him and his fate is lost from life or death (Zaslavskaya, 2018; Lynch, 2006). We conclude that the prisoner is one of the following:

1. If news about him and his fate is not known, he does not know his life from his death, and his place of residence.
2. To be known as alive, in this case, does not take the missing rule.

The Legal Procedures of the Missing Claims

After the statement of the missing provisions and distinguishing it from the absentee and prisoner, we have in this section the news of the missing and declare it as practical procedures followed by the investigation courts.

The News about the Missing Person

The preliminary procedures comprise that the relevant parties are taken to report on the case of loss. This is followed by submitting a request to the competent investigating judge, who shall refer the request to the investigating authority for the investigation of the missing case and presents the investigative papers to the investigation judge, who records the testimonies of the informant "wife, father, mother, or the interested". This judge then reviews the documents and listens to the witnesses who have testimonies to provide about the loss (Mijs, 2016; Lynch, 2006).

Declaration About the Statement of the Civil Missing

The civil missing means the owner of the free profession and not the employees or employers of the internal security forces or the defence minister (Charlotte & Stéphanie, 2013). The missing persons were obliged to review the personal status court for the purpose of establishing the value of the missing, if he did not leave his agent before his loss. The personal status courts have settled to mandate the interested to be appointed as a trustee for the purpose of providing news of a loss, then submit the matter to the competent inquiry court, which takes the legal investigative procedures to ensure the loss of the missing and not to leave the country through the border crossings (Renshaw, 2010).



Declaration of the Status of the Missing Employee in the State Departments

The General Secretariat of the Ministers Council for 2007 issued that certain controls of the legal judgment of the kidnapper are as follows (Namhila, 2015; Dunley, 2019):

1. The kidnapped person's relatives oblige to resort to the Personal Status Court to declare his condition.
2. This forces them to review the Directorate of Minors Care to open a special file for the missing.
3. Claiming the missing relatives to submit a certified copy of the investigative papers organised by the police station of the Personal Status Court, where the crime of kidnapping occurred within their region.
4. Request of the Kidnapper Department to write to the Directorate of Travel to inquire about airports and border ports to make sure that the person who the claimant lost did not leave Iraq.
5. Cooperation with Erbil and Sulaymaniyah Airports through the Kurdistan Regional Government and its representative in the General Secretariat of the Council of Ministers to ensure that he does not leave his loss through them.
6. After the completion of these procedures, his department can pay his salary in accordance to the decision of the dissolved Revolution Command Council No. 88 of 1987 until his death is proved by fact or judgment.

Declaration of the status of the Missing Members of the Ministry of Defence

Article 87 of the Law of the Minors Care in Force states that: "The case of the missing person shall be declared by a decision of the Court. The Minister of Defence or the Minister of Interior shall make as the decision of the Court for members of the armed forces and the security forces and the declaration shall be annulled if appears an evidence of the missing person's life". Article 49 of the Military Service and Retirement Law No. 3 of 2010 defines the soldier as "Who loses and does not know his fate during the line his duty or because of him" and takes measures to declare the missing soldier in accordance to Article 87 of the minors care law, and based on the Military Criminal Procedure Law No. 30 of 2007 (in Articles 9, firstly and 10 fourthly), that upon the order of the Defence Minister, he shall form an investigative council in the military unit which the soldier belongs to verify the fact of his loss, issue the necessary recommendation and submit the matter to the Ministry of Defence. After completing the necessary procedures and with the approval of the legal advisor, the Minister of Defence shall issue his decision to lose the soldier who was one of the employees of his ministry, and instruct the owner of the relationship of the missing soldier



to submit this decision to the court of the personal status before issuing the authoritative source (Björn, et al., 2015).

Declaration of the Status of the Missing Members of the Interior Ministry

Article 6 of the Criminal Procedure Law of the Internal Security Forces No. 17 of 2008 stipulates that “the Minister of the Interior shall form an investigative Council in the Ministry of the Interior to investigate cases referred to him by the Minister or his authorized representative”. After finishing the investigation, he then sends the investigative papers to the legal adviser in the ministry for verification and transfers it to the competent, to refer to the competent internal security service court or return it to the investigative council for investigation to complete the shortfalls, if any. It is noticed, in the current time, that the Ministry of the Interior is following the instructions of the Ministry of Finance No. 1 of 2010 concerning Law No. 20 of 2009 for compensation for those affected by military operations, mistakes and terrorist operations when issuing a decision of declaring the missing of one of its employees. Article 1 of these instructions states that “these instructions shall include the permanent employee, the public sector, the military and internal security forces who are lost or kidnapped as a result of military operations, military errors or terrorist operations”. It is clear from the above that the decision of the Minister of Interior is after the investigation of the missing case and the conditions of missing and the issuing of the ratification decision, which serves as the declaration of a case.

Bases for Responsibility of the State for Compensation

The scope of State responsibility is determined by compensating persons who are affected by their acts, whether legitimate or unlawful, on the basis of theory of mistake or risk theory. This responsibility includes compensating those affected by violence acts and terrorism, including Da’esh offences.

The responsibility of the State for compensation is back to the legal obligation on the victims when the state fails to direct the civil claim against the defendant for compensation. These bases are set in Article 7 (2) of the Iraqi Constitution of 2005. The State is obligated to fight terrorism in all its forms. The duty of protection required compensation for those affected by terrorist acts. The offender in the terrorist offences is often unknown or difficult to obtain compensation; the state is obliged to compensate for the victim because it guarantees for the security of its members. Thus, there is a moral and social obligation to assist the victim in the terrorism offences, and this obligation is achieved to the extent allowed by its financial size and budget, considering that the individuals are affected by the crime in large numbers (19).



Responsibility for Compensation for the Missing Families as a Result of Military Operations and Da'esh Offences

The era of the Da'esh organisation in Iraq has resulted in a series of complex cases. Apparently, the most complex of these cases is the Iraqi absentees, who are in the thousands and are mostly from civilians who without news, have been missing for several years. However, this file is still entangled and takes dimensions to transcend the work of the judiciary and the political agreements to try to find a solution to their fate. It comes at a time when the families of the absentees are hoping to receive from the government the disclosure of the fate of their children within the state responsibility. The reports of the families of the missing victims amounted to more than five thousand reports. The majority of them are civilians who had not received news since the period that accompanied the entry of Da'esh to the Mosul City in June and until today. The remains of the absentees have been found in mass graves left by Da'esh inside the city, but these numbers do not form a significant proportion of the absentees whose fate is still unknown (20).

With regard to the Compensation Law, Article 18 of the Law on Compensation for Victims of Military Operations and Terrorist offences No. 2009, it states the following instructions:

1. Article (5): First/A: The Ministry or the entity not affiliated with the Ministry shall pay the amount of the grant to the families of the martyrs and missing persons provided for in Article 10 of Law No. 20 of 2009 or the injured from the remuneration allocations in its budget after confirmation that the martyrdom, injury or loss occurred as a result of one of the acts covered by the above law.
2. Article (5): First/B: The Ministry or the entity not affiliated with the Ministry shall notify the Budget Department of the Ministry of Finance to cover the disbursed amounts.
3. Article (5): Second/A: After completing the procedures stipulated in Article 4 of the Instructions, the department which the missing or martyr works shall pay his salary in accordance with the dissolved Revolutionary Council Decree No. 88 of 1987 until his death is proved fact or judgment.
4. Article (5): Second/B: The salary and the grant shall be granted to the relatives of the missing, martyrs or kidnapper in case his death is proved or judgment according to Law No. 20 of 2009.

Based on what was approved by the House of Representatives in accordance to the provisions of clause I of article 61 and clause III of article 73 of the Constitution, the President of the Republic issued on 30 December 2015 law No. 57 of 2015 and is the first amendment of the compensation law for those affected by military operations and terrorist operations No. 20 of 2009. The Amendment Act stipulates: Article 2 of the first item of act replaced by martyrdom, loss or



kidnapping or the injury resulting from the operations provided for in this law. Article 3 of the law shall be repealed and replaced by the following: First: a central committee called “the Central Committee to compensate those affected by military operations and military mistakes and terrorist operations”, headquartered in Baghdad and shall be affiliated with the General Secretariat of the Council of Ministers in coordination with the Department of Victims Martyrs of Military Operations, Military Mistakes and Terrorist Operations in the Martyrs Institution. Second: sub-committees in Baghdad, a melody in the Kurdistan region and a committee in each province is not organised in the region called the “Subcommittee of Compensation the Victims of War, Military Mistakes and Terrorist Operations”. Associated with the Department of Victims Martyrs of Military Operations, Military Mistakes and Terrorist Operations in the Martyrs Institution and the Subcommittee is to open offices in areas where it deems necessary with the approval of the Central Committee. Third: A committee in each ministry or entity not related in a ministry.

Literature Review

"The persons missing those whose their families are without news and whose fate is unknown" as victims of internal violence or international armed conflicts or conflicts affecting the borders of one State or the nature of the conflict is international, even if it is locally (war against Terrorism). The responsibility for legal protection for missing persons lies with the participating States in the conflict or in the war against terrorism, as well as the international community which bears the greatest humanitarian responsibility as a result of addressing situations of terrorism and the resulting missing persons during or after the end of the military operations.

The Legal Responsibility of the Iraqi Government in Accordance with its International Obligations

In the Working Group report on enforced disappearances or involuntary cases issued by the Human Rights Council in March 2006, it confirmed that the number of registered cases was 51,530 across 79 countries, including Iraq's share of 16,387 cases. The international commission on missing persons (ICMP) signed an agreement with the Iraqi government in 2012, wherein the Iraqi authorities recognised that families have the right to know the fate and whereabouts of their missing relatives. This is an obstacle to the reconstruction of civil society in Iraq and the government has a direct responsibility for efforts to identify the location of missing persons and their identification by using DNA and other forensic tools considered more suitable. Furthermore, the agreement had involved building institutional capacity in Iraq to address the issue of missing persons transparently, regardless of ethnic or national origin. In a subsequent report of the Human Rights Council to the United Nations General Assembly in February 2013 (issued in English), the number of missing people as a result of the Iraq war, invasion and occupation was estimated at



250,000 to 1 million missing for the period of 2003–2013. The report refers in many points that the United States has a responsibility to contribute directly to the act of aggression and occupation or indirectly because of the indifference or non-participation in the enforced disappearances of Iraqi citizens. Therefore, the report claims to ensure the investigation of all human rights violations in Iraq since 2003, by an independent international body, and all measures must be taken to end the case of punishment for enforced disappearances cases within Iraq or with regard to the occupying forces responsibilities (Donnelly, 2019).

In a 2015 report of the United Nations High Commissioner for Human Rights in Iraq to the Human Rights Council, it notes the issues of civilians protecting and supporting community reconciliation, and the need to promote justice, carrying the due process of law and fair trial standards through legal comprehensive and institutional reforms. The report addresses cases of enforced disappearance, emphasizing that the Iraqi and Kurdish authorities have imprisoned individuals but have not told their families of their whereabouts, and detainees were not informed of the charges against them and were prevented from meeting with legal representatives. The Office of the United Nations High Commissioner for Human Rights in Iraq has contacted the Iraqi authorities to ensure if the disappeared individuals were caught by the Iraqi authorities. It requested information on the whereabouts and circumstances of the identified individuals, as well as the legal proceedings against them. In June 2015, the Government of Iraq replied to the inquiries of the Committee of Enforced Disappearances cases: “There were 27,843 persons held as of 14 April 2014 in detention centres and prisons governed by the Ministry of Justice, including 11,779 detainees under the Anti-Terrorism Act (including convicted and still awaiting trial); and 926 women. And (181) juveniles”(28).

There is an international responsibility for Iraq under international law for not taking the necessary procedures to prevent human rights violations. International human rights law obligates governments to end impunity for serious human rights violations through thorough impartial investigations that are comprehensive and neutral. It is necessary to prosecute those responsible for serious crimes, particularly those related to the right in the life and arbitrary detention, and the perpetrators should be prosecuted and punished. Furthermore, addressing the rights of victims, accessing the truth and compensating those affected in accordance with the measures established in the International Convention for the Persons Protection from Enforced Disappearance, to which Iraq is a party (Imseis, 2019; Sarah & Eleanor, 2019).

The International Responsibility in Accordance with the International Law of Human Rights

The international obligations relating to the protection of the missing persons’ rights and their families are based on the rules of international humanitarian law that are applicable during armed



conflicts, as well as on the rules of international human rights law that are applicable to all persons within the jurisdiction of the State. This means to apply in situations of armed conflict and in addition to international humanitarian law, adhering to their rules in turn to a large extent without the loss of people and knowing their fate in the impact of international and non-international armed conflicts. These legal bases are as follows (Walter & Jörg, 2019):

1. The four Geneva Conventions of 1949
2. Additional Protocol I on the Protection of Victims of International Armed Conflicts, 1977
3. Additional Protocol II concerning the Protection of Victims of Non-International Armed Conflicts of 1977
4. International Covenant on Civil and Political Rights of 1966
5. Convention on the Rights of the Child, 1989
6. The 2006 International Convention for the Protection of All Persons from Enforced Disappearance
7. Regional conventions for the protection of human rights (Council of Europe 1950, American Convention of 1969, African Charter of 1981).

There are two basic duties: the duty to disclose the fate of missing persons and their whereabouts, and the duty to prevent people from becoming missing. The Geneva Conventions and their Additional Protocols establish the legal protection necessary to ensure that the disclosure of a missing person's fate and their whereabouts are in accordance with Articles 16 and 17 of the First Convention, Articles 19 and 20 of the Second Convention, Articles 122–124 of the Third Convention, Articles 136–141 of the Fourth Convention, and Articles 32 and 33 of the Additional Protocol (Walter & Jörg, 2019; Anderson, 2006).

These obligations lie on States as well as the conflict parties, and the obligation to fulfil this obligation exists even after the armed conflict has ended, without a time limit and until possible measures have been taken to find out the missing's fate. These States are aware of their obligations under international humanitarian law and their responsibility for any failure to comply with its provisions, including the protection of civilians during armed conflict, the prevention of loss or connection with them and the protection of their families rights.

One of the legal precedents in the search for missing persons relates to missing Kuwaitis during the Iraqi invasion of Kuwait in 1990, as the Security Council established a tripartite committee in 1991 to find out the missing's fate during the Gulf War of 1990. It consists of Iraq and Kuwait and four members from France, Saudi Arabia, Britain and the United States of America. The committee has met regularly since 2003 and has been able to resolve 304 cases related to missing persons.



International Responsibility in Accordance with the Rules of Public International Law

This responsibility is promote in accordance with the relevant United Nations decisions and the reports of its Secretary-General, as well as the International Convention of the individuals protection of forced disappearances of 2006

The General Assembly of the United Nations Decisions

Decision No. (3220/1974): The decision noted the tragedy caused by the lack of available information of civilians and missing fighters or dead as a result of conflict. Furthermore, it recognised the desire to know the fate of these people is a fundamental humanitarian need to be met to the fullest extent possible, and that their information must be provided, as noted in this decision: “the duties of States during the conflicts and immediately the end, firstly represented to determine the location of mass graves and duty to facilitate the search for remains and their immediate delivery to the people in addition to, concerned persons provided with information about missing persons, including persons from other States not parties to the conflict, and cooperate with the ICRC in this regard”.

Decision No. (44/160) in 1989 and Resolution No. (45/165) in 1990: “Call on governments to take measures to protect the families of disappeared persons from any threat or ill-treatment they may be subjected to, either in the exercise of their right to get information or in the context of providing the working group on enforced disappearances with the necessary information that may help to locate the missing person”.

Decision No. 47/133 in 1992(37): concerning the protection of all persons from enforced disappearance, “clearly recognizes the right of relatives to prompt and effective judicial remedy as a means of locating persons deprived of their liberty. In addition to the obligation of the State to ensure adequate compensation for the missing and their relatives, including the means of ensuring the fullest possible rehabilitation of the missing”.

Decision No. (61/155) in 2007 relating to (Missing Persons): calling upon States to obligate with the rules of international humanitarian law, in particular those victims of armed conflict from missing, to take all measures to prevent their loss, and thus the their families right to know their fate, to establish their own evidence, and establish legal mechanisms for social welfare, financial matters, family law and property rights.

Report of the Secretary-General of the United Nations to the Security Council in 2018: The Secretary-General of the United Nations affirmed that there are large numbers of missing persons



in the context of armed conflicts and States are not taking enough measures to prevent their loss or guarantee their families right to know their fate. The Secretary-General called on all States Members of the United Nations and the conflict parties to ensure that the law is implemented in terms of its applicability to missing persons(39). This confirmed “the collective obligation” to provide legal protection for missing persons and to trigger accountability for violations of their rights or their families.

International Convention for the Protection of Individuals against Forced Disappearances of 2006

The agreement is the first international treaty to define enforced disappearance. Iraq has been a member since 23 November 2010, and was the twentieth country that has ratified it. Meanwhile, the United States did not sign or ratify it on the pretext that “the text has not met expectations”, without giving an explanation, which confirmed it does not obligate with the provisions of international humanitarian law (40). The International Convention has adopted a system to stop the enforced disappearances through the obligation to take necessary measures to establish jurisdiction on the crime of enforced disappearance in accordance with article 9 (2), which states that: "Each State Party shall take the necessary measures to establish its jurisdiction to decide on the enforced disappearance crime"(41):

1. When the offence is committed within any territory under its jurisdiction or onboard aircraft or vessels registered in that State.
2. When the alleged offender is a national.
3. When the disappeared person is one of its nationals and the State Party considers it appropriate to establish its jurisdiction.

This convention prohibits enforced disappearance through specific mechanisms, including (42):

A. Fighting impunity: the treaty obliges states to provide perpetrators of enforced disappearance to justice regardless of where the crime was committed to ensure that no one can escape justice.

This is a preventive measure. Every person deprived of his or her liberty and held in an official place, as well as connected externally and to inform his family and lawyer of the detention place. The first international instrument explicitly acknowledged that disappeared persons are not victims of enforced disappearance, but their families have the right to know the fate of their disappeared members and the right to compensation for what they have suffered. An international committee has been set up to supervise the implementation of the convention. Experts receive reports from States, as well as complaints from individuals, especially relatives of disappeared persons. The ICRC has the power to search for the missing person and determine his place of work. The convention sets out the obligations of States with regard to the protection of persons from all forms



of enforced disappearance in articles 3–25, the most important of which are: Article 3, affirming that “each State Party shall take appropriate measures to investigate specific acts”. Article 2 is carried out by persons or groups of individuals acting without the authorisation, support or consent of the State, and to bring those responsible to trial.

Article 4 states: “Each State Party shall take the necessary measures to make enforced disappearance a crime in its criminal law”.

Article 5 states: “The general or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and entails the consequences”.

Article 6 states: “Each State Party shall take the necessary measures to hold criminally responsible all those who commit the crime of enforced disappearance”.

Research Methods

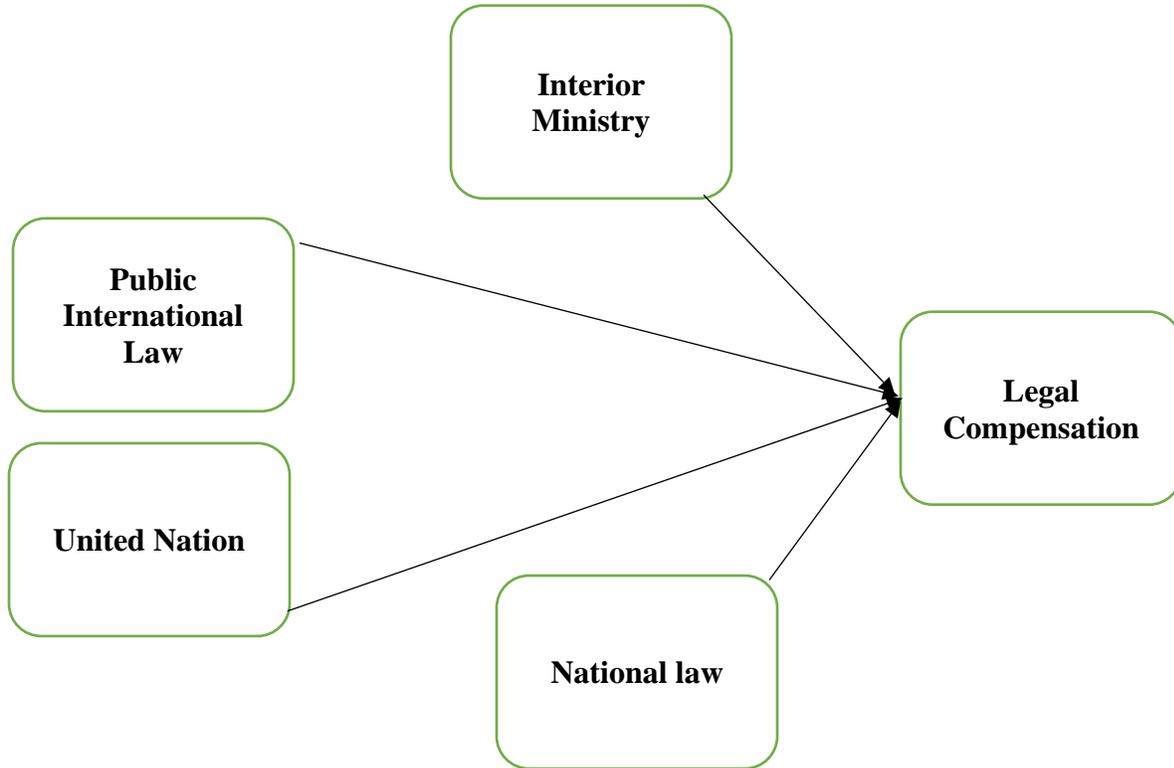
The major aim of the current study is to examine the legal compensation, both national and international, for the missing as a result of military operations and terrorist offences by Da’esh. For this purpose, data was gathered from the families of the missing persons of Iraq. For data collection, 780 questionnaires were sent and only 520 were received back. That is only a 66.67 per cent response rate.

Measures

The variable legal compensation (LC) has ten items, while interior ministry (IM), public international law (PIL), united nation (UN), and national law (NL) have ten, six, ten and eight items, respectively.



Research Framework



Findings

This part of the finding highlighted the convergent validity that shows items are correlated and the statistics proved that items are correlated, and convergent validity has been proven. Table 1 below shows the convergent validity.



Table 1
Convergent Validity

Constructs	Items	Loadings	Alpha	CR	AVE
Legal Compensation	LC1	0.705	0.849	0.884	0.523
	LC7	0.782			
	LC2	0.822			
	LC3	0.631			
	LC5	0.626			
	LC6	0.680			
	LC8	0.789			
	Interior Ministry	IM1			
IM3		0.742			
IM6		0.781			
IM7		0.804			
IM9		0.743			
IM10		0.758			
Public International Law	PIL1	0.838	0.883	0.911	0.631
	PIL2	0.834			
	PIL4	0.793			
	PIL6	0.666			
	PIL3	0.792			
	PIL5	0.828			
United Nation	UN1	0.792	0.896	0.918	0.587
	UN2	0.843			
	UN3	0.497			
	UN4	0.812			
	UN5	0.722			
	UN6	0.776			
	UN9	0.828			
	UN10	0.800			
National Law	NL1	0.892	0.806	0.859	0.553
	NL2	0.812			
	NL4	0.677			
	NL7	0.648			
	NL8	0.657			



This part of the finding highlighted the discriminant validity that shows constructs are not greatly correlated and the statistics proved that constructs are not greatly correlated and discriminant validity has been proven. Table 2 below shows the discriminant validity.

Table 2
HTMT Ratio

	LC	IM	PIL	UN	NL
LC					
IM	0.803				
PIL	0.636	0.777			
UN	0.605	0.573	0.419		
NL	0.713	0.906	0.537	0.545	

The regression analysis highlighted the positive, as well as significant nexus among all the national and international authorities, and laws and institutions such as interior ministry, public international law, national law and united nations, with the legal compensation provided to the families of missing individuals. Table 3 below highlighted the regression analysis of the study.

Table 3
Path Analysis

	Beta	S.D.	t-values	p-values	L.L.	U.L.
IM -> LC	0.307	0.098	3.115	0.001	0.143	0.459
PIL -> LC	0.169	0.063	2.694	0.004	0.075	0.280
UN -> LC	0.383	0.039	9.860	0.000	0.322	0.449
NL -> LC	0.202	0.053	3.772	0.000	0.107	0.286

Discussions and Conclusions

Through research on the issue of legal compensation, both national and international, for those missing in connection with the military operations and terrorist crimes of ISIS, several conclusions can be reached, as well as some suggestions as follows.

The idea of compensating the State for victims of crimes, although recently addressed by several studies, is an old concept. Compensation is a right of the victim, not a grant from the State. It is one of the most important duties of the State to ensure and protect its citizens and residents, and it is the responsibility of the State to compensate, regardless of its need or level of social income, without the need to prove the failure of the State to prevent harm.



The State's obligation to compensate victims is based on the idea of social solidarity, especially in cases where perpetrators are unable to compensate victims, as the nation is responsible for protecting its vulnerable and caring for their interests.

This obligation extended on the State extends to all types of crimes, without distinction between them as compensation is a means of reparation without regard to the type of crimes. This includes whether those crimes were indiscriminate and are committed on persons, such as killing or injuring; against funds such as theft or fraud; or honour crimes, such as adultery and indecent assault. The state's obligation to compensate did not distinguish between types of harm and whether physical, financial or moral damage. The responsibility of the State, which is stipulated in the Constitution and confirmed by international conventions and national legislation, makes it obliged to assume its responsibility to compensate those affected.

There is an international responsibility for Iraq under international law for not taking the necessary measures to prevent human rights violations. There is an international responsibility under international humanitarian law and international human rights law to be borne by its States parties, as well as those involved in the conflict. Furthermore, there is an international responsibility in accordance with the rules of general international law to be borne by the States parties to them as well as by those involved in the conflict.

It is essential to facilitate procedures for obtaining compensation for the victim in terrorist crimes by reducing the red tape and bureaucracy experienced by most Arab countries, including in Iraq. Give the victim or his relatives the right to file a claim against the civil before the same criminal court, which considers the origin of the dispute because of the speed of its resolution and to share the evidence achieved in the case before it. In addition, increase the amount of compensation to include legal persons and relatives of missing persons in the Iraqi law No (20) for the year 2009, so that this compensation to reparation is in the full sense of the word. Further, establishing a social fund in Iraq and allocating its proceeds to those affected by terrorist crimes in Iraq. This includes the martyrs, the wounded and their families. Concerted international efforts are needed to conclude a cooperation agreement in the field of combating terrorism and compensating the victim through an international fund dedicated to this matter. We hope that this will be done under the auspices of the United Nations through the General Assembly represented by most of the world's countries.



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International Journal of Innovation, Creativity and Change. www.ijicc.net
Volume 8, Issue 3, 2019

Wouters, Jan, and Katrien Meuwissen. "The European Union at the UN Human Rights Council: Multilateral Human Rights Protection Coming of Age?." *European Journal of Human Rights* 2 (2014): 135-172.