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The Obligation Feature within the Rules of Civil Law

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Abstract: This research defines a legal rule as a general and abstract social norm aimed at regulating social relations, which is associated with a material sanction imposed on violators. It highlights the distinctive characteristics that separate legal rules from other social norms. The study focused on the most crucial characteristic: the binding nature represented by material sanctions applied to those who breach legal provisions. Since sanctions vary depending on the nature of the rule, they sometimes take the form of penalties and other times compensation. The research addressed sanctions arising from violations of civil law rules, with compensation being one of the most prominent forms. However, compensation is not the sole form of sanction in civil law. The study examined whether the presence of legal sanctions constitutes an inherent characteristic of legal rules, questioning if rules without sanctions can still be considered legal. The research concluded that, while sanctions represent a significant feature, some civil law rules retain their legal status even in the absence of explicit sanctions. This conclusion reflects the complexity of legal obligations and suggests the need for a nuanced understanding of sanctions within civil law frameworks.

Keywords: Obligation – Sanction – Compensation – Imperative Rules – Interpretative Rules .

صفة الإلزام في قواعد القانون المدني

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المخلص : يمكن تعريف القاعدة القانونية بأنها قاعدة سلوك اجتماعية عامة مجردة هدفها تنظيم الروابط الاجتماعية، وهي مقترنة بجزاء مادي يفرض على من يخالف احكامها. ويتبين من هذا التعريف ان القاعدة القانونية تتميز بالعديد بالصفات التي تميزها عن غيرها من القواعد الاجتماعية، وليس هدفنا في هذا البحث الموجز تتبع كل صفات القاعدة القانونية، وانما نأخذ من تلك القاعدة أهم صفة فيها، ألا وهي صفة الإلزام المتمثل بالجزاء المادي على من يخالف احكامها، ولما كان الجزاء يختلف بحسب اختلاف طبيعة القاعدة القانونية، فتارة يكون عقوبة وتارة يكون تعويضاً، فإننا سنتناول الجزاء الذي يكون نتيجة مخالفة قواعد القانون المدني والذي يعد التعويض ابرز صور الجزاء فيه، ومع ذلك فان التعويض ليس هو الصورة الوحيدة للجزاء في القانون المدني. لكن هل الجزاء القانوني صفة جوهرية في القاعدة القانونية بحيث لا يمكن ان تنال تلك الصفة بدون الجزاء، ام توجد بعض القواعد في القانون المدني تخلو من الجزاء دون ان تفقد صفة القاعدة القانونية ؟ هذا ما سنحاول الاجابة عنه في ثنايا البحث .

الكلمات المفتاحية : القانون المدني – الإلزام – الجزاء – التعويض – القواعد الامرة – القواعد المفسرة .

Introduction :

General Overview of the Research Idea:

The legal rule is described as an obligatory rule, meaning that there is a material sanction attached to the violation of this rule. It is this characteristic of material sanction that gives the legal rule its strength in enforcement, as the sanction creates a sense of necessity for individuals to comply with the law and refrain from violating its provisions. Sanctions are not exclusive to the legal rule; all social rules are characterized by sanctions. However, what distinguishes the legal rule from others is that its sanction is material, unlike the sanction in moral rules, which manifests through societal disapproval and disgust. Furthermore, the sanction in the legal rule is worldly, in contrast to the sanction associated with religious rules, where the punishment is in the afterlife. Naturally, sanctions take various forms depending on the type of legal rule. However, the question remains: Is a sanction an inherent characteristic of a legal rule, or can we find a legal rule that does not involve a sanction? This is what we aim to explore and address throughout the research .

The Importance of the Research Idea

The legal rule is characterized by several attributes that distinguish it from other social rules, and these attributes vary in terms of their significance. However, the most important of these attributes is its binding nature. This is why the title of the research is significant, as it addresses the most important characteristic of the legal rule .

Research objectives :

This research aims to:

1. To stand on the concept of sanctions in civil law.
2. To declare whether this characteristic is an essential requirement for a legal rule, as an inherent feature .
3. To determine if a civil rule can still be considered a legal rule despite lacking a sanction.

Research Problem :

Although the presence of a sanction is widely recognized as a defining characteristic of legal rules—distinguishing them from moral, religious, or social norms—this view is not without controversy. Some legal theorists argue that a rule may retain its legal nature even in the absence of a coercive element, relying instead on voluntary compliance, moral obligation, or institutional authority.

This raises a fundamental legal question: Is the existence of a sanction an essential condition for a civil rule to be considered a legal rule? If not, what then distinguishes legal rules from other normative systems? And how should civil law address norms that lack direct sanctions but still guide behavior?

This research seeks to critically examine the legal necessity of sanctions in defining civil law rules. It aims to analyze the divergent perspectives within legal theory, identify the normative implications, and ultimately provide a reasoned position on whether sanctions are a necessary attribute for a rule to qualify as “legal” in the context of civil law.

Research Methodology :

We will approach the study of this topic using the analytical method by presenting relevant legal texts, explaining their legal nature, and discussing the perspectives of legal scholars. The primary focus will be on the Iraqi Civil Code and the Egyptian Civil Code, both of which belong to the civil law tradition. Although both codes stem from the same legal school, the research aims to provide a thorough analysis within this framework.

Research Plan :

We will approach the study of this topic by dividing it into two sections. In the first section, we will address the concept of obligation in the rules of civil law, dividing it into two subsections. The first subsection will discuss the concept of obligation in civil law rules, while the second subsection will focus on the necessity of sanctions in civil law rules. The second section will apply the concept of sanctions to the two types of civil legal rules: imperative rules and interpretative rules, dedicating a separate subsection to each of these types .

Chapter One

Obligation in Civil Law

In line with the structure of this research, this chapter addresses the concept and role of obligation within the framework of civil law. It is divided into two sections:

The first section discusses the legal nature and meaning of obligation.

The second section examines the necessity of sanctions in civil law provisions and their relationship to legal obligation.

The first section discusses the legal nature and meaning of obligation:

At the outset, it is necessary to understand the concept of civil law. Historically, Muslim jurists did not use this term to refer to the rules governing financial matters. The term "civil law" is a borrowed term, much like other legal terms that we have adopted from Europe. In France, the term "civil law" refers to matters that regulate family affairs and financial issues. However, Arab countries, including Iraq, adopted the same term but limited its scope to the financial aspect only. (Al-Hakeem, A. M., Al-Bakri, A. B., & Al-Bashir, M. T. (2017). As for the rules related to the family, a separate law has been dedicated to them, namely the Personal Status Law. (Abbas, A. F. (2013).

As for what concerns obligation, when it is said that a legal rule is binding, it means that it must have a material sanction imposed by the public authority, which is enforced coercively on those who violate it.(Al-Saddah, A. M. F. (1965). The concept of obligation, which is associated with all rules of conduct, is based on another idea: the idea of sanction. Obligation cannot be imagined unless the legal rule is accompanied by a sanction imposed on the person who violates its provisions. The definition of sanction in this sense is included in the definition of the legal rule itself. It is the rule that is associated with a sanction guaranteed by the state through its means of force, coercion, and compulsion. Just as the law originates from the authority of the state, it is this authority that ensures the law is respected through the coercive means at its disposal. (Tanago, S. A. S. (1974).

What the concept of sanction means is the possibility of compelling individuals to obey legal rules if they do not comply voluntarily. This gives the sanction a deterrent character, emphasizing the strength of the law. Therefore, it is better to describe the legal sanction with the term "coercion," which reveals its nature as a material, organized state that is enforced through the use of physical force by a public authority within the community to override individual wills. (Kira, H).

The sanction may either be a criminal sanction, intended for deterrence, which affects the person of the violator or their property, such as a fine, or it may be a civil sanction, intended for enforcement, where the debtor is compelled to perform the obligation towards the creditor (Al-Sanhouri, A. R., & Abu Steit, A. H) .

If the first image that comes to mind regarding sanctions is criminal punishment, it is important to recognize that sanctions or coercive measures are not exclusively criminal in nature. Civil sanctions also exist and take various forms. For example, sanctions may include annulment, which occurs when legal acts are performed in violation of the law, rendering them void and without any legal effect. Another form is the removal of the consequences of the violation, meaning the elimination of any effect caused by breaking the law, provided that such removal is possible. When removal of the violation's effect is impossible, compensatory damages become the alternative sanction. For instance, if a person injures another by running them over with a car, causing harm such as the amputation of a leg, (Kira, n.d., p. 40) . the amputated leg cannot be restored, but the perpetrator is obliged to pay monetary compensation to the victim. The fulfillment of an obligation may take the form of direct performance, such as specific performance, or may be performed indirectly through compensation, among other forms of legal obligations and sanctions resulting from their violation. (For more details, see Al-Saddah (p. 18).

Section Two: The Essential Role of Obligation in Civil Law Provisions

Every legal rule must have a sanction; otherwise, it cannot be considered a law in the true sense, even if it is explicitly stated in the law. In such a case, it would be regarded as mere advice that an individual may choose to ignore. However, it should be noted that respect for the law does not always arise from the fear of sanctions. Often, it stems from the public's belief in the law as a social necessity for protecting the social order and guiding the community toward progress. The more advanced a nation becomes, the more deeply this belief is ingrained in its citizens, leading them to adhere to the law's provisions without concern for potential sanctions. Nevertheless, this does not diminish the role of sanctions. What matters is not whether the legal rule is obeyed voluntarily or because of a sense of obligation, but rather that it is well understood in advance that if an individual does not follow it voluntarily, the sanction will inevitably be imposed. (Al-Sanhouri, p. 17).

Nevertheless, scholars have disagreed on whether the sanction or coercion is an essential element for the existence of a legal rule. Some do not consider it necessary for its establishment, as, according to them, the law is a set of rules aimed at being accompanied by a sanction, without requiring that this sanction be necessarily and inevitably attached to them. In their view, the sanction is not an integral component of the law, but rather an external element related to its enforceability. The absence of a material coercion to ensure compliance with the law does

not negate its existence, although it may reduce its effectiveness and implementation in practice. (Kira, p. 38).

"Regardless of the matter, those who argue that it is possible to conceive of a law without a sanction support their view by pointing to the absence of sanctions or coercion in some branches of public law, especially in international public law and constitutional law. It is noted that international public law has not yet acquired the status of complete positive law, while constitutional law is a law in the full sense. The only difference is that its sanction takes forms that are different from the ordinary sanctions known in other branches of law. (Kira, pp. 38-39)

"Austin believes that international public law is not law, due to the lack of a supreme legislative authority that enacts its rules and an executive authority to enforce them. In other words, because it does not contain the authority of command, which is the basis of Austin's theory. However, the majority of scholars, in contrast, affirm that international public law is law in the true sense, because the requirement for a supreme political authority to create legal rules is not necessary. Domestic law, for instance, began with customs and traditions. Moreover, one can observe the sanctions imposed during war, as well as the principle of retaliation, in addition to what the United Nations can impose on violating states. (Al-Sanhouri & Abu Steit, pp. 263-264)." "Austin also denied constitutional law the status of law due to the absence of coercive force in its rules. However, constitutional law is indeed law in the true sense, as it does not lack this element. In fact, it surpasses ordinary laws, which are protected by the power of the nation in an indirect way, represented by the police or the military. In contrast, constitutional law is directly safeguarded by the nation's power, and it is defended whenever its freedom is violated. Therefore, the constitution is considered the fundamental law of the state, and no legislation can be issued that contradicts its rules." (Al-Sanhouri & Abu Steit, pp. 266-267).

In my view, the characteristic of obligation is fundamental for the formation of a legal rule in civil law. Most provisions within civil law embody this obligation. Obligation manifests in various forms, with compensation for harm caused to others being the most prominent. Furthermore, sanctions in civil law may include annulment of contracts, restoring the parties to their prior situation, and remedying harm through specific performance. When specific performance is not feasible, substitute performance or other remedies may apply.

"It seems to us that not all the rules of civil law are characterized by the feature of obligation. It is well known that an obligation is made up of two elements: the element of indebtedness and the element of responsibility. The element of indebtedness represents the personal relationship between the creditor and the debtor, which imposes an obligation on the debtor to perform and on the creditor to accept the performance. This does not involve the element of coercion to fulfill the obligation. On the other hand, the element of responsibility involves the coercive aspect of enforcing the obligation if the debtor fails to perform voluntarily. Based on this, obligations are divided into two types: civil obligations and natural obligations. A civil obligation is one in which both elements, indebtedness and responsibility, are present, and this is the norm. However, it may be that only the element of indebtedness exists, without the element of responsibility. In this case, the obligation is referred to as a natural obligation." (Al-Hakeem, pp. 9-10). "A natural obligation is an incomplete obligation that contains only the element of duty or indebtedness, without the element of responsibility. It does not include within it any means by which the creditor can compel the debtor to perform the obligation. The debtor has full freedom to either fulfill the obligation or not, as the matter is left to their conscience." (Abdel Baqi, p. 8) .

"Al-Sanhouri states that a natural obligation is a moral duty that falls within the realm of law, and the law acknowledges it to a certain extent. What the law recognizes regarding a natural obligation is voluntary performance. Voluntary performance is considered valid if the debtor performs the obligation willingly and is fully aware of the matter—that is, if they know that the law does not compel them to perform, but they nevertheless fulfill the obligation to the creditor because they feel their conscience requires them to do so. In other words, the debtor cannot recover what they paid in fulfillment of this natural obligation, as what was paid is not a gift that they can retract, but rather a settlement of a debt they owe." (Al-Sanhouri, pp. 724-725). "Some argue that although this obligation lacks the sanction by which the creditor can compel the debtor to perform it, it is still associated with a legal sanction if the debtor performs the obligation or commits to performing it in the future. The aspect of its association with a legal sanction, in the case of the debtor's performance, is that this performance is considered settlement of an obligation that was burdening the debtor. Therefore, it is not considered a donation or payment of something not owed. The aspect of its association with a legal sanction when the debtor commits to its performance is the possibility of coercion to enforce it." (Abdel Baqi, pp. 8-9).

Although the aforementioned opinion appears reasonable, a more precise legal interpretation suggests that a natural obligation is in fact devoid of any enforceable sanction. This is because a sanction, in its legal sense, lies in the authority to compel performance. The recognition of voluntary fulfillment and the legal consequences that follow do not, in themselves, amount to a sanction. If the debtor does not perform voluntarily, there is no legal mechanism to compel performance, which confirms the absence of a true legal sanction.

"This is further supported by what some believe, that the natural obligation occupies an intermediate position between a purely moral obligation and a full legal (civil) obligation. The law does not concern itself with a purely moral duty, such as helping the poor, for instance, as this is left to the rules of ethics and religion. On the other hand, the law fully recognizes civil obligations, as it not only imposes the duty of performance on the debtor but also establishes their responsibility for it. If the debtor fails to perform voluntarily and willingly, the creditor is granted the means to compel them through the power of the state. Between these two extremes—the purely moral duty and the full legal obligation—lies the natural obligation." (Abdel Baqi, p. 9).

"The natural obligation is mentioned in Article 199 of the Egyptian Civil Code No. 131 of 1948, which clarifies in its first paragraph the enforcement of the obligation on the debtor through coercion, and this is undoubtedly a civil obligation that allows the debtor to be compelled to perform. The text states: 'The obligation is enforced by coercion on the debtor.' However, the second paragraph addresses the natural obligation, stating: 'However, if the obligation is natural, there is no coercion in its performance.'

No text in the Iraqi Civil Code explicitly mentions the term 'natural obligation,' but it is applied in practice. In this regard, Al-Sanhouri, after citing the text from the Egyptian Code, states: 'No equivalent provision appears in the Iraqi Civil Code No. 40 of 1951, but this does not imply that the Iraqi Civil Code does not recognize the natural obligation. In the general principles and in the principles of Islamic jurisprudence, there are legal concepts that serve as a substitute for a textual provision recognizing the natural obligation in this law. (Al-Sanhouri, p. 722).

"The Iraqi legislator included the most well-known application of the natural obligation, which is the statute of limitations preventing the hearing of the lawsuit. The statute of limitations is not considered an objection that the court may raise on its own initiative; rather, it must be

invoked by the party concerned. Additionally, the Iraqi legislator recognizes the acknowledgment of a right after the expiration of the limitation period and considers its performance as valid and producing legal effects. Initially, Article 429 stipulated that: 'A claim for an obligation, regardless of its cause, shall not be heard against the denier after it has been abandoned without legitimate excuse for fifteen years, subject to special provisions in the law.' Later, Article 442 provided the following:

1. The court may not refuse to hear the claim by itself due to the passage of time. This must be done upon the request of the debtor, their creditors, or any other party with an interest in this defense, even if the debtor does not invoke it.
2. The defense may be invoked at any stage of the lawsuit, even before the appellate court, unless it is clear from the circumstances that the defendant has waived the defense."

It is the author's perspective that the rules of civil law generally possess the characteristic of obligation, whereby a violation leads to various forms of sanctions such as compensation, compelling the debtor to perform, or restoring the parties to their original positions in cases of invalid contracts, among others. However, the author believes that not all civil law rules are obligatory, nor do all violations result in sanctions. Thus, it is concluded that, while the general principle in civil law is the binding nature of its rules, the natural obligation represents an exception, characterized by the absence of coercive enforcement.

"Another way to describe the situation is to say that the obligation in the rules of civil law, as a general rule, arises through the use of means to compel the debtor to perform the civil obligation as long as both elements of indebtedness and responsibility are present. This does not prevent a person from voluntarily performing their obligation in accordance with what is required by good faith. This is what is stipulated in the first paragraph of Article 150 of the Iraqi Civil Code, which states: 'The contract must be performed in accordance with what it includes and in a manner that is consistent with the requirements of good faith.' Furthermore, the contract does not only encompass what is stated in it, but also includes other matters addressed in the second paragraph of the same article, which states: 'The contract is not limited to the obligations stated therein, but also includes what is implied by law, custom, and justice according to the nature of the obligation.'

The performance of an obligation in good faith, according to the provisions of Article 150 of the Iraqi Civil Code, is not specific to contracts but is general for all obligations, regardless of their source.

The general rule is voluntary performance of the obligation, which is the meaning of voluntary fulfillment. If the debtor refuses to fulfill the obligation, we then encounter the element of responsibility in the rules of civil law, which compels the debtor to perform their obligation. However, if the obligation is of the type of natural obligation, meaning it only includes indebtedness without the element of responsibility, the performance arises from the debtor's conscience, not from means of coercion."

Chapter Two

The Effect of Obligation in the Rules of Civil Law

A legal rule may be imposed on the will of individuals in an absolute manner, without depending on their will, or it may be limited to assisting the will of individuals in their legal actions. In the first case, the door to individual initiative is closed, and we are dealing with a

mandatory or absolute rule. In the second case, the path is open for the will of individuals, and we are dealing with a supplementary or relative rule.(Hijazi, 1972, p. 231).

The legal rule regulates the behavior of individuals within society, and within this framework, it may be necessary to establish rules that have an absolute degree of obligation due to their connection to the public interest of society. In this regard, the legal rules are presented as mandatory rules. As for the private interests of individuals, their regulation comes in the form of supplementary rules.

At first glance, it may seem that the obligation is complete or absolute in mandatory rules, and fluctuating in supplementary rules. However, this is not the case. To clarify the nature of the obligation in both types of rules, as they represent the effect of obligation in the civil law rules, it is necessary to explain the essence of mandatory rules and the extent of their obligation, which we will address in the first section. Then, we will clarify the essence of supplementary rules and the extent of their obligatory nature, which we will discuss in the second section.

Section One - The Legal Nature of Mandatory Rules and Their Impact on Legal Relationship Regulation:

Mandatory rules, also known as absolute or peremptory rules, are a set of rules that require all parties involved in a legal relationship to fully comply with them. They do not have the power or freedom to disregard these rules . (Al-Attar, n.d., p. 19). These rules relate to the fundamental interests of society, and therefore, individuals are not permitted to deviate from them. (Jabr & Abdel-Sadeq, n.d., p. 70).

These rules are called absolute rules because they require individuals to follow a certain course of action or refrain from a certain behavior, and they are not permitted to agree to act contrary to their provisions in their legal actions.(Hijazi, n.d., p. 232).

Some have defined them as rules that individuals are not allowed to agree to violate. If individuals attempt to contravene these rules, their actions are considered void and legally ineffective.(Mansour, 2010, p. 93). "Because the area regulated by these rules is of such importance to the stability of the system within society, it cannot tolerate any other form of regulation coming from their side. (Al-Rifai, 2008, p. 103).""It is an absolute rule of application, where the freedom of individuals is nonexistent in relation to any matters concerning amendment, change, or exclusion." (Qasim Ali, 1997, p. 74).

The legislator may consider certain behaviors necessary for maintaining order within society, and that failure to follow these behaviors could lead to chaos and disruption among individuals. Therefore, the legislator resorts to formulating legal rules in the form of commands and prohibitions that individuals cannot agree to violate, or else their agreements would be void. In this way, the legislator ensures a minimum level of order within society.(Suleiman Jaber & Abdel Sadiq, n.d., p. 71).

The imperative rules are defined as those rules that impose absolute compliance on all those subject to them, regardless of the individuals' will, and even in spite of it (Hijazi, n.d., p. 231). Examples of imperative rules include those related to the prohibition of assault on a person's body or property, as well as those related to taxes, in addition to rules that prohibit contracting over an undeserved inheritance or a future estate. (Mansour, 2010, p. 93).

As previously stated, every rule that includes a command implying an obligation and is accompanied by a penalty to be imposed in case of violation is, therefore, a mandatory rule. (Al-Attar, n.d., p. 19). The obligation in imperative rules is reflected in the penalty resulting from the violation of those rules, which may appear in the form of contract nullification, compensation, imprisonment, fines, or other forms of legal penalties, depending on the nature of the violation, the extent of the harm, and its consequences. (Tanago, n.d., p. 86).

The legislator has decided that such matters are related to maintaining order within the community, and allowing individuals to modify them could jeopardize the fundamental interests of society. (Mansour, 2010, p. 94).

The obligation in imperative rules is absolute and unquestionable, as these rules are corrective of individuals' behavior within society. Therefore, the legislator has made the characteristic of obligation inherent in them wherever they exist, and the characteristic of obligation is absolute in these rules.

While most imperative rules are found within the scope of public law, as the branches of public law are their natural domain, civil law also contains imperative rules. Examples of such rules can be found in the Civil Code, particularly regarding rules. According to the second paragraph of Article 130 of the Iraqi Civil Code, capacity and other matters are among those for which the legislator deems it necessary to prohibit agreements that contravene their provisions. The article explicitly states: "The provisions related to personal status, such as capacity, inheritance, and those related to the transfer and procedures necessary for dealing with endowments, real estate, the property of a minor, endowment property, state property, compulsory pricing laws, and other laws issued for the protection of consumers in exceptional circumstances are considered public order provisions."

Additionally, Article 137(1) of the Iraqi Civil Code clarifies the effect of a void contract, stating:

"A void contract is one that is entirely without effect, either due to its nature or due to one of its characteristics."

Since nullity is considered a matter of public order, Article 141 of the same Code affirms that the court may declare the contract void on its own initiative. The article provides: "If the contract is void, any interested party may invoke its nullity, and the court may declare it on its own motion. Nullity cannot be remedied through ratification."

Section Two: The Role of Obligation in Supplementary Legal Rules:

Supplementary rules are those rules that individuals may agree to override, as they are not directly related to the fundamental interests of society. In other words, these are rules that complement the will of individuals in organizing matters related to their own interests, and the law grants them the freedom to regulate these matters as they see fit. (S. S. Jaber & M. S. Abdel Sadiq, p. 71; see also: M. H. Mansour, p. 94).

The supplementary rule, or relative rule, is one that does not impose a specific course of action or prohibition on individuals. Rather, it aims to assist individuals in aligning with their will in order to achieve specific legal consequences. (H. Hegazi, p. 245). It is also defined as: a set of rules in which the legislator has provided flexibility for individuals by allowing them to exclude them and adopt a rule that contradicts them. These are commonly referred to as supplementary

or interpretative rules. It is also said that the term "interpretative" refers to those rules that interpret the intention of the contracting parties in the event they agree to violate the provision of the matter to which the rule applies. (Tanago, p. 85).

There is no doubt that using the term "supplementary rules" is more accurate and correct than the phrase "interpretative rules," because the former indicates that these rules complement the intention of the contracting parties. Through these rules, the legislator does not impose a single, strict, binding provision on individuals. Instead, the legislator proposes a rule or solution and allows the parties in the relationship the option to disregard it or replace it with another rule. If they explicitly choose to waive what the legislator has prescribed and adopt another rule, each party is obligated to respect what they have agreed upon. However, if they overlook this matter and a dispute arises, the judge will then refer to the rule set by the legislator as the source for resolving the dispute before them. (Al-Attar, p. 85).

Supplementary rules have a legal benefit in that they relieve the contracting parties from the burden of organizing all legal matters. These rules provide precise provisions that govern the consequences of the relationship established by the parties. They also serve to fill any gaps in individuals' contracts that may result from their silence or forgetfulness. (Hegazi, p. 247).

In their transactions, individuals sometimes agree on essential matters without addressing the detailed or secondary issues, which often lead to disputes. Therefore, the law provides a model for individuals in the form of a supplementary rule, which they may choose to follow or agree to deviate from. An example of such supplementary rules is the one stipulating that the price of the sale should be paid at the place and time of delivery of the goods. This rule applies if the individuals do not agree on another place and time for payment. (Mansour, p. 94). The philosophy of obligation in supplementary rules lies in posing the following question: If individuals have the freedom to either follow or violate supplementary rules, does this mean that these rules are non-binding?

The element of obligation is considered one of the most important characteristics of a legal rule, which is reflected in the penalty provided within the rule. Most contemporary legal scholars have emphasized the existence of the element of obligation in supplementary rules. These rules are not merely suggestions that individuals may choose to follow or violate, but rather legal rules in the clear sense, containing the element of obligation, much like imperative rules. The element of obligation in supplementary rules is manifested, as some argue, based on the implied will of the individuals. (Marqas, 1987, p. 79). The legislator assumes that individuals will act in accordance with supplementary rules if they remain silent about violating them, as if they implicitly intended to apply them. The prevailing opinion in legal doctrine is that supplementary rules are considered binding, but this obligation is conditional upon the absence of an agreement to the contrary. This condition is essential for the application of the legal rule and does not negate its obligatory nature. Every legal rule requires certain conditions to be met for its application, and one of the conditions for applying a supplementary rule is the absence of any conflicting agreement. (Mansour, 2010, p. 94).

This means that the organization established by the legislator only becomes binding under the condition that the parties do not agree on a different, specific arrangement. (El-Badrawy, 1985, p. 90). If the parties agree to something contrary to the supplementary rule, its application is prevented, not because it is not binding, but because one of the conditions for its application is not met. (Ali, 1997, p. 76).

The legislator intended for these rules to serve as a framework for organizing matters that the parties did not address, guided by what a typical contracting party would do in organizing their contractual relationship. Thus, the obligation of this type of rule is considered relative or supplementary. It is relative in the sense that there is no obligation on the parties to follow it, and supplementary in that it only applies when the parties have not organized their legal actions . (Hijazi, p. 246).

Accordingly, supplementary rules are binding, just like imperative rules. The only difference lies in the fact that their binding effect depends on the absence of an agreement between the contracting parties to exclude their application. There are numerous examples of non-imperative (supplementary) rules in civil law, including those found in Article 534 of the Iraqi Civil Code, which states:

1. If the sale is with deferred payment, the seller may retain ownership until the full price is paid, even if the goods have been delivered.
2. If the price is paid in installments, the parties may agree that the seller retains part of the price as compensation for the cancellation of the sale if all installments are not paid. However, the court may, depending on the circumstances, reduce the agreed compensation in accordance with the rules on contractual compensation.
3. If all installments are paid, ownership of the goods passes to the buyer from the time of the sale, unless there is an agreement to the contrary.
4. The provisions of the three previous paragraphs apply even if the parties refer to the sale as a lease.

Conclusion

This research reaffirmed that obligation constitutes the core and most essential characteristic of the legal rule. What distinguishes legal rules from other types of social rules is the presence of an obligation coupled with a material sanction imposed by public authority on violators. While moral or ethical rules may involve some form of social disapproval, their penalties are non-material and lack legal enforceability. However, this study focused primarily on the legal framework, where binding obligations and sanctions are pivotal.

Despite this, the research identified certain categories of legal rules that do not carry formal sanctions. These have been described by some scholars as occupying a middle ground between ethical and legal rules. This distinction is clearly manifested in the differentiation between civil obligations, which entail both liability and enforceable sanctions, and natural obligations, which lack enforceability but may still be fulfilled voluntarily, thus discharging the debtor's responsibility.

Moreover, civil law encompasses two types of rules: imperative (mandatory) rules and supplementary (interpretative) rules. Imperative rules are mandatory and cannot be excluded by agreement, while supplementary rules apply only in the absence of contrary agreement by the parties. Although supplementary rules do not impose coercive sanctions, they retain binding force unless explicitly excluded, thereby serving to fill gaps in legal relationships and maintain legal certainty.

Findings

1. Obligation is inseparable from the concept of the legal rule, especially in civil law, where it frequently coexists with a material sanction.
2. Not all civil law rules require a formal sanction to be binding; natural obligations and supplementary rules illustrate binding effects without coercive enforcement.
3. Supplementary rules play a vital role in filling legal gaps, ensuring the continuity and predictability of legal relations when parties fail to specify terms.
4. The distinction between imperative and supplementary rules is essential for balancing the autonomy of contracting parties with the need for legal certainty and order.

Recommendations

1. Legal education curricula and civil codes should emphasize clarifying the binding nature and legal effect of supplementary rules to prevent misinterpretation regarding their enforceability.
2. Legislators are encouraged to provide further clarification within civil legislation concerning the enforceability of natural obligations and their legal implications.
3. Judicial authorities should reinforce the interpretative and gap-filling role of supplementary rules, particularly in contractual disputes characterized by silence or ambiguity.
4. Future research should explore the evolving significance of non-coercive obligations in contemporary contract law and their theoretical and practical implications.

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