

The Extent to Which Judicial Accountability Procedures Can Be Applied in Iraqi Courts to Adjudicate Private Claims and Disputes and Financial Violations

Hazem Ali Muttair

College of Administration and Economics, University of Sumer, Iraq

Fraq Abdulaal Mhalhal

Baghdad Education, the third Rusafa/Ministry of Education

Suhair Kadhim Fadhil

Ministry of Higher Education and Scientific Research, Iraq

Abstract: The research aims to verify the extent to which judicial accounting can be applied in the Iraqi environment and its relationship to traditional accounting and the difference between them, as well as to verify the extent to which courts in Iraq rely on forensic and legal accountants when considering cases of irregularities and financial disputes.

In order to explain the research problem and achieve its objectives, the descriptive analytical approach was adopted, as (75) questionnaires were distributed to the sample members (auditors, accountants, chartered accountants, and financial analysts) and using the simple linear regression model scale, the research hypotheses were tested, and the research reached the most critical conclusions: There is an apparent weakness among some employees of the judiciary in Iraq, regarding the importance of judicial accountability, which affects the separation of financial violations. Therefore, the most critical recommendation is to establish a separate entity for forensic accountants in Iraq to know them and use them to help provide legal support to the courts in Iraq when presenting disputes and financial irregularities.

Keywords: Forensic accounting, forensic accountant, financial irregularities, chartered accountant.

1. Introduction:

Judicial accounting arose due to the judiciary's need for accountants' services in cases of an accounting and financial nature, and it is defined as the use of accounting, reference and investigative skills in assisting the judiciary in disputes of an accounting and financial nature to reach the truth. The roles of the judicial accountant have varied. In addition to his role in the courts as an expert witness who performs the task assigned to him by the court, he may play the role of advisor, mediator, or arbitrator. His services are in high demand due to the experience and skills he possesses from insurance

companies, banks, police and government agencies. The cooperation of accountants and legal professionals has become inevitable to deter fraud, money laundering and economic crimes.

2. Research Methodology:

2.1. Research problem:

The research problem is that there are shortcomings in the traditional accounting methods in limiting the financial irregularities before the courts in Iraq, which have many lawsuits, private disputes and financial irregularities as well as fraud and fraud, and this requires transparent investigation and professional investigation through the use of recent developments in the fields of accounting and law. In addition to the lack of accuracy and objectivity in separating cases related to financial disputes, the courts must use judicial accountability as a new method for dealing with these irregularities and financial abuses.

2.2. Research objectives:

The research aims to achieve the following objectives:-

- To verify the extent to which forensic accounting can be applied in the Iraqi environment and its relationship to traditional accounting and the difference between them.
- To verify the extent to which the courts in Iraq rely on forensic and legal accountants when considering cases of irregularities and financial disputes.
- Verify whether the courts in Iraq distinguish between a forensic accountant's services and a chartered accountant's services.
- Directing the beneficiaries of judicial accountability and courts in Iraq to this type of accountability.

2.3. Importance of research:

The importance of the research stems from the reliance of the courts in Iraq on the legal accountant when settling disputes and lawsuits presented to them, as well as the absence of an independent entity for forensic accountants.

2.4. Research hypothesis:

The research is based on several primary hypotheses:

- The difficulty of differentiating the courts in Iraq when they use auditors between the legal accountant and the forensic accountant on the one hand and the judicial accounting and traditional accounting on the other.
- The courts in Iraq accept the services provided by the chartered accountant to settle disputes and financial irregularities.
- The absence of an independent entity for forensic accountants in Iraq is similar to that of chartered accountants.

2.5. Search limits :

a. Spatial limits: The research was reduced in its application to the Iraqi environment, represented by a sample of auditors and audit offices in the local environment.

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b. Temporal limits: On its practical side, the researcher relied on the information of the questionnaire, the answers of which were available for the year 2018 and which is concerned with clarifying the role of judicial accounting in settling lawsuits and disputes.

2.6. Data collection methods:

This research is based on the following methods:

- The historical method: to present the previous studies related to the topic of the research.
- The deductive approach: to determine the research axes and develop hypotheses.
- The inductive method: to test the validity of the hypotheses.
- The descriptive-analytical approach is conducting the field study and analyzing the results.

3. Previous studies:

- Lina Mustafa Burghul, 2015 "The Role Of Forensic Accounting And Corporate Governance And The Complementary Relationship Between Them To Face Financial And Administrative Corruption In The Jordanian Public Shareholding Companies"

The study aimed to clarify the complementary relationship between criminal accounting and corporate government and its role in reducing cases of fraud and financial and administrative corruption. The study concluded that criminal accounting provides tools and means that enable the judicial auditor to investigate and detect cases of fraud, embezzlement and financial corruption. Therefore, the most important recommendation that the study reached was the necessity of creating the function of the criminal auditor in the courts to adjudicate criminal and financial crimes.

- Abdul Sattar Abdul Jabbar Idan Al Kubaisi, 2016 "A field survey on judicial accounting from the perspectives of the judiciary and the forensic accountant in Jordan."

This study aimed to investigate the importance of judicial accountability in fairly resolving disputes of a financial nature in Jordan, based on the two points of view of the judiciary and the forensic accountant. The results showed a clear difference between the two views of the parties concerned with their services and applications. In the light of those results, some conclusions were drawn, the most important of which was that despite these statistically good results, they do not rise to the actual level that judicial accounting must play in combating fraud and fraud and achieving justice in society, and based on the conclusions, the study suggested several recommendations that can be To contribute to the development of this vital field in Jordan.

- Amer Dayikh Obaid Al-Quraishi, 2020 "The Role of the Forensic Accountant in Achieving Integration of Accounting and Legal Performance - An Applied Research in the Federal Financial Supervision Bureau"

The study aimed at forensic accounting as it combines accounting, auditing and legal knowledge and investigative skills to search for facts about issues or allegations and claims that companies may be exposed to and that the development of this profession requires joint efforts between academic institutions and professional institutions, in a way that contributes to the development and promotion of this profession, The study reached to develop the role of the forensic accountant in supporting lawsuits related to commercial disputes in the capacity of an expert witness by organizing provisions and rules in legal texts that are consistent with the nature of the work of judicial accounting to avoid and ward off

risks and urge judicial experts to have the features and characteristics required in forensic accountants, similar to the developed country.

4. The general framework for judicial accountability:

4.1. The concept and definition of judicial accounting:

The term forensic accounting means the application of financial facts in judicial matters. Historically, Maurice Blount was the first to use the term forensic accounting, Where he used the forensic accountant as an expert witness in bankruptcy court hearings in 1817 in Canada. The concept of forensic accounting is focused on identification, proof, recording, interpretation, research, communication and verification of previous data or other activities and submitting a report supported by legal and objective evidence to prove the current fact and predict the future accounting and that Similar to the regulatory business system.

There were several introductions to judicial accounting, according to writers and researchers, where it was known as:

- It was also defined as "an activity that includes collecting, operating, analyzing and verifying data to obtain evidence related to financial and judicial violations and disputes, and preparing the report with the appropriate corrective action." (Shehata, 2014: 108)
- It was also defined as "the accounting analysis that can lead to the discovery of potential fraud, and is appropriate to present it in the court. This analysis is a basis for discussion, argument and dispute resolution." (Al-Quraishi, 2020, 46)

4.2. Objectives of forensic accounting:

Due to the absence of a single definition agreed upon among the thinkers of the science of accounting and auditing forensic accounting, the goals that it seeks are also multiple as a result of the differences in viewpoints of the accounting and auditing profession owners of the law. It takes an active role in resolving judicial financial disputes and is a reason to deter those who try to defraud and betray trust and honesty. Its objectives are summarized in several aspects, including. (Enofe, 2013, p44)

1. Investigation and detection of the following operations (fraud and fraud, tax evasion, any criminal practices that may be committed, such as manipulation of financial records) and are done by checking the actual cases of fraud that were discovered, obtaining the necessary evidence and clues, and seeking the assistance of experts.
2. It aims to compensate the affected by identifying the person responsible for this. This is one of the most important goals through studying and checking documents, determining the value of damages and losses.
3. Conducting the necessary investigations to verify the validity of the alleged allegations submitted by the complainants or those affected, to accurately calculate the amounts of compensation and losses or express an opinion to the court.
4. Seeking to estimate the expected and potential economic damage, estimating the number of losses, collecting strong financial evidence about them, supporting the position of legal claims, as well as identifying the perpetrators of fraud crimes and the locations of financial assets to recover them (Gbegi, 2014, p 14).

5. Providing advisory services or financial arbitration, whether these services are written or oral, and before the courts or the authorities that requested that. (Al-Jalili, 2012: pg. 41)

4.3. Importance of Judicial Accounting:

The importance of judicial accountability stems from the study of the concept and objectives of judicial accounting, as there are reasons that led to the increase in the importance of judicial accounting, represented in the following: (Al-Quraishi, previous source, 56)

- a. The emergence and spread of corruption and fraud of all kinds have become one of the world's problems that affect practicality.
- b. Reducing the expectations gap in accounting, especially regarding corruption and fraud, as financial accounting as the current has not been able to reduce that gap.
- c. Filling the judiciary's needs and courts with experts and consultants who can provide financial and accounting information and data for legal purposes.

5. The elements, foundations and areas of judicial accounting:

5.1. Elements of forensic accounting:

In this part of this topic, we will discuss the elements of judicial accounting by knowing and understanding the following points: (Ali, 2011: 611).

- a. The components of personal and field performance levels and their report include the following:
 - The components of the general performance level or the individual components, as the scientific and practical qualification in the case of judicial accounting, differ from those of traditional financial accounting, so several aspects should be taken into account, including investigation and investigation in qualification.
 - Ingredients related to the level of field performance: by examining and evaluating the internal control system that can be developed for forensic accounting by examining and evaluating programs that serve the judicial aspects of the economic unit, such as managing risks related to environmental obligations, managing profitability and predicting the future, as this is a plan or control system Internal legal aspects.
 - Ingredients related to the level of preparation of the report: The main elements of the final report on forensic accounting are very close to the requirements of legal accounting and auditing standards, so there is difficulty in separating the tasks and requirements of forensic accounting and the legal accountant.

5.2. Professional standards for forensic accounting:

Studies have shown that there are no standards for forensic accounting as a modern trend in accounting, except for those that have been referred to or addressed by some researchers and writers related to fraud. Although the scope of forensic accounting cannot be limited to the issue of fraud only but goes beyond that to include (corruption, expectations gap, the dispute between partners, arbitration and mediation cases, money laundering, injury and accident claims, insurance, liquidation procedures, theft, tax evasion, bankruptcy, etc.)

Despite the importance of these issuances associated with fraud and some risks, forensic accounting needs to have its independent standards due to the seriousness of the role played by the forensic accountant, which was previously addressed. (Al Kubaisi, 2016,43)

5.3. Domains of forensic accounting:

The most critical areas of judicial accounting have been identified, which include (Al-Jalili & Jamil, 2013, pg. 84)

a- Accounting investigation services: including:

- Identification of accounting violations in order to determine their effects.
- Combating money laundering operations.
- Verify the reasons that led to the declaration of bankruptcy of companies.
- Investigation of bribery payments, misappropriation and misappropriation of funds.
- Handling and settling tax disputes.
- b - Legal support services: including (Bashir, 2014,201)
- Investigation of white-collar crimes (financial and administrative corruption) and the collapse of major companies.
- Providing legal and accounting advice to resolve disputes.
- Providing consultations related to litigation in order to resolve disputes arising from professional and legal responsibilities.
- Provide a certificate of experience in legal and financial affairs.

5.4. Types of forensic accounting:

Based on those previously referred areas, some see that there are several opinions about the types or forms of judicial accountability. Several writers and researchers have agreed that forensic accounting has two types (Ali, 2011, 101).

a- Independent Judicial Accounting:

Where he viewed forensic accounting as a type of independent accounting because it performs specific tasks for the account of the management or the accounting committee, according to the need and at its request, whether it is periodically, i.e. every period or non-periodic, such as a whole or partial audit, knowing that this type is not done regularly. Automatically, but at the request of the parties benefiting from it.

b - Considering judicial accounting as one of the traditional accounting procedures:

Forensic accounting is seen as one of the traditional annual accounting procedures so that the auditor can fulfil his responsibility towards discovering fraud and manipulation in the financial statements. Therefore this falls within the framework of supporting the concept of quality in accounting, given that the forensic accountant will then become a member of the accounting team as An expert or specialist who is hired to detect fraud and fraud cases based on his qualifications.

5.5. Forensic accounting methods

There are several methods used by forensic accounting. (Madumere, 2013,67)

- a. Interactive examination: It is the process that aims to conduct the necessary investigations to verify illegal or suspicious areas or activities in order to reach good confirmation of the existence of fraud or not, as well as identify the persons responsible for this and collect appropriate and acceptable evidence to support the lawsuit.
- b. Remote audit: This audit aims to verify several different aspects, and the remote audit includes the following:
 - c. Examination of the internal control system.
 - d. Regulated compliance audit: This type is used in the case of a government audit.
 - e. Personal tool skills are the skills used by the person conducting the audit.
- f. Investigation of allegations: conducting the necessary investigations about the complaints and allegations submitted to achieve the desired results.
- g. Many countries require obtaining a license to practice accounting to be registered in the Register of Certified Public Accountants or forensic accountants if any.
- h. Providing support and advice to the judiciary regarding financial reports related to financial disputes.
- i. Preparing and providing the necessary answer to respond to the questions and inquiries received from the courts regarding financial and other cases and disputes.

5.6. Forensic accounting techniques:

There are many techniques used in the application of forensic accounting, including:

- a. Benford's law

It is a simple and easy-to-apply law that dates back to 1881, which is considered a mathematical method for identifying whether the study variable is a case of unintentional error or fraud when the study variable is subject to specific determinants through the study of logarithms. (Al-Jubouri & Al-Khalidi, 2012: p. 425)

The following limitations should be taken into consideration:

- The sample size.
- There are numbers on which the law does not work because these numbers are assigned, such as phone numbers, cars, and bank account numbers.
- There should be no restrictions on the numbers or, to a certain extent, to them, or the numbers appear regularly for a specific reason, such as the sequence of instruments.

- b. Relative Volume Theory

This theory sheds light on the unusual fluctuations that may contain fraud or actual fraud, as this theory measures (the ratio of the most significant number to the second largest number from a particular group) (Madumere, 2013:p5)

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c. computer-assisted auditing

Many general-purpose audit programs are no longer exclusive to any company. These programs are designed to perform some special functions of the audit process, which are effective in the audit process in general and the forensic accountant in particular, such as the program (Gbegi, 2014: pg. 52)

- ✓ Active data & Andale
- ✓ SPSS
- ✓ Pan Auditor

d. data mining

The data mining process includes three main activities (Gbegi, 2014: pg. 54).

- Exploration by revealing knowledge or patterns in the data such as correlation, trends or variations.
- Prediction models estimate the outputs that should be obtained from new values.
- Variation (Difference Analysis): Extracting variance or difference through the criterion or rule, which is like anomalies and needs to be investigated.

6. Practical side:

6.1. Information about the search community and includes

a. Society and sample of the research community are represented by the entire group of elements that the researcher seeks to generalize the results related to the studied problem in the group of teachers specialized in accounting and law, as well as accountants, auditors and legal professionals in the same research units and a group of investors in the Iraqi stock market for the exploratory study.

b. The research sample The vocabulary of the research sample was selected from the above study population using a random sample (non-probability), which the researchers chose for the study population vertically. Table No. (1) represents the number of forms distributed to the components of the research sample as well as the number of recovered and valid forms for statistical analysis

no	sample members	Distributed forms	Refund	Percentage
1	teaching	12	10	%83
2	accountant and auditor	18	18	%100
3	investors	30	25	%83
4	legal	15	14	%93
	the total	75	67	%89

c. Classification of the research sample: Where a sample of accounting practitioners and holders of a bachelor's degree or higher were selected, and through the general data collected about them and using statistical frequencies, the characteristics of the study sample were determined. Its a change in the result of this study if it is re-applied later.

- The majority of the sample members are at the (bachelor's) level, as their percentage reached 57% of the sample. In contrast, the percentage of holders of higher degrees (Master's, PhD, chartered accountant) in the sample was (43%). It is clear from this that all sample members hold university degrees and postgraduate studies, which indicates the quality of the scientific qualification of the

sample members and thus their ability to understand the questionnaire phrases well and answer accurately.

- Most of the members of the research sample have accounting specialization, where their percentage reached (60%) of the sample members, which indicates the extent of sufficient knowledge of the sample members with the nature of the specialization subject of the study, which is reflected in the scientific answer to the axes and questions of the questionnaire, while the percentage of specialists in business administration (12)%. As for law specialists, their percentage reached (28)%.
- Years of service for the research sample and their field of specialization or current work, and the highest percentage was for people who have service from (11 to 15 years).

6.2. Using the Likert scale:

The degree of possible responses to the paragraphs was also measured to a five-fold gradation according to the Likert scale in distributing the weights of the answers of the sample members. Accordingly, the hypothetical mean of the study becomes: the total score of the scale is the sum of the weights over their number (2 + 4 + 6 + 8 + 10), $5/ = 6$, which represents the hypothetical mean of the study, and accordingly, if the average of any expression rises from the hypothetical mean (6), this indicates that On the approval of the sample members on the statement, and if the average of the statement falls below the hypothetical mean, this indicates disagreement.

6.3. Research hypothesis testing:

a. Testing the hypothesis of the first study (the courts in Iraq, using auditors, do not differentiate between the legal accountant, the financial accountant, and the forensic accountant in separating lawsuits and disputes related to financial violations, and several (9) phrases measured it. And by 67 questionnaires, the results showed the following

S	S.D	mean	R.S	Level of agreement
Total	1.125	7.16	% 89.8	Approval level

S=Statements, S.D= Standard deviation, = Relative significance

Moreover, when analyzing the results of the statements for the first hypothesis, whose average is more than the hypothetical mean (6), this result indicates the agreement of the sample members with a very high level of agreement.

- Courts in Iraq do not differentiate between a legal accountant and a forensic accountant in separating cases, as they have fulfilled all the statements. A general mean of (7.16), a standard deviation of (1.125), and relative importance of (89.8%).
- The lack of differentiation between the legal accountant and the forensic accountant in the investigation services affects the quality of the financial and non-financial information submitted to the courts in Iraq (a general average of (6.63) and a standard deviation of (1.235) and the relative importance of (79.8%).
- The failure to differentiate between a chartered accountant and a forensic accountant affects the achievement of fair separation of claims and disputes related to financial irregularities.

b. The second hypothesis test is the Iraq courts' acceptance of the services provided by the chartered accountant for settling disputes and financial irregularities, and (12) phrases measured it. And by 67 questionnaires, the results showed the following

S	S.D	mean	R.S	Level of agreement
Total	1.01	6.07	% 84.4	Approval level

- That all the statements that express the focus of the second study hypothesis average more than the hypothetical mean (6), and this result indicates the approval of the sample members with a very high level of approval that the Iraqi courts, in their use of legal auditors in separating lawsuits and disputes related to financial violations, have achieved all Average phrases. A year of (6.07) with a standard deviation of (1.01) and relative importance of (84.4%).
- It is noted from the table that the phrase (the use of the legal accountant by the courts in Iraq in the accounting investigation services affects the quality of the information provided to the courts in financial cases) came in the first place as the average answers of the sample members to the phrase. (7.36) with a standard deviation of (1.051) with a very high relative importance, reaching (85.2%), followed in the second place by the phrase (poor qualification of auditors does not lead to the Iraqi courts using any auditor) with arithmetic mean (6.26) standard deviation (0.952) and the importance of Relative (82.2%).
- As for the last rank came the phrase (there is no discrimination in the courts in Iraq between the tasks of financial accounting and judicial accounting, as it averaged (6.68), with a standard deviation of (1.20) and relative importance of (71.9%).

c. The third hypothesis test (there is no independent entity for forensic accountants in Iraq, it was similar to legal accountants) was measured with (10) statements and by 67 questionnaires, and the results showed the following.

S	S.D	mean	R.S	Level of agreement
Total	1.24	6.17	% 83.2	Approval level

When analyzing the results of the statements for the third hypothesis, whose average is more than the hypothetical mean (6), this result indicates the agreement of the sample members with a very high level of agreement that

- The courts in Iraq depend on the legal accountant to separate the lawsuits due to the lack of an independent entity for the judicial accountant, as they fulfilled all the statements. (a general mean of (7.36), a standard deviation of (1.145), and relative importance of (89.8%)
- The absence of a future entity for the forensic accountant stems from the lack of differentiation between the legal accountant and the forensic accountant in the services provided before the courts in Iraq, with a general average of (6.93), a standard deviation of (1.25), and relative importance of (78.9%).
- The absence of an independent entity for the forensic accountant affects in one way or another the achievement of fair separation of claims and disputes related to financial violations, as it achieved a general average of (6.16), a standard deviation of (0.985), and relative importance of (85.20%).

7. Conclusions and recommendations:

7.1. Conclusions:

1. The courts in Iraq accept the legal support services provided by the legal accountant when deciding the cases presented to them without making a distinction between the forensic accountant and the legal accountant.
2. There is a continuous effort to resolve financial disputes and violations between stakeholders by mutual consent without resorting to the courts to preserve their reputation regarding compensation for car accidents, fraud and economic losses.
3. The courts in Iraq do not differentiate when they need legal support services to settle cases and disputes related to financial violations between the legal accountant and the forensic accountant, which affects the quality of the resolution of disputes and financial violations.
4. There is an apparent weakness among some employees of the judiciary in Iraq regarding the importance of judicial accountability, which affects the separation of financial violations.
5. The absence of a particular entity for forensic accountants in Iraq when the courts need legal support services, investigation and detection of fraud and fraud.

2.7. Recommendations:

Based on the previous results, the researcher recommends the following:

1. The courts in Iraq must differentiate between a legal accountant and a forensic accountant when they use auditors to provide legal support and according to the type of case and dispute.
2. The relevant professional bodies should highlight the role, importance and fields of judicial accounting in resolving disputes and violations and limiting fraud and financial corruption.
3. Establishing a separate entity for forensic accountants in Iraq to know them and use them to help provide legal support to the courts in Iraq when presenting disputes and financial irregularities.
4. Establishing training courses for qualifying auditors and accountants working in auditing offices who wish to be forensic accountants in all areas of legal investigation and investigation.
5. Governmental units train and qualify the internal auditors on the skills of investigation, legal investigation and others, and highlight the role of judicial accounting for their assistance in the courts and others.

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