

**Responsibility of the Contractor and the Engineer for the Guarantee of  
Building Solidity in the Jordanian Civil Law: Comparative Study**

**By**

**Adel Abdul Azeez Abdul Hameed Samarah**

**Supervisor**

**Dr. Gassan Khaled**

**Abstract**

This study examined the responsibility of both the contractor and the engineer for the solidity of a building after its completion and delivery to its owner. The significance of this study lies in many aspects: protection of the owner of the building who usually has little experience in building matters especially when it comes to defects, which may appear after completion and delivery, which threaten the solidity and safety of the building. This subject is also important because it protects public interest if buildings and other permanent installations are solid and safe.

The study began with the legal nature of responsibility in order to find out the legal basis on which it rests whether this basis is in a contract or a harmful act or law. It was found that the legal responsibility was founded by the law. Its provisions are different from those of contractual or inadequate responsibility given the fact that it's a responsibility pertinent to the public system and it has a specified timeframe. It only concerns one specific kind of damages. It also has specific range in terms of persons on whom it applies: the contractor and the engineer, on one hand, and the owner, on the other hand.

The Jordanian lawmaker has regulated the provisions of the responsibility pertinent to the contractor and the engineer in the articles of the Civil Law (articles 788, 789 and 790).

Article 788/1 stipulates, "if the contracting contract is based on acceptance of the building designed by an engineer provided that it's executed by the contractor under his/her supervision, then the two shall be guarantors in compensating the owner of the building if a whole or partial demolition occurs to buildings or installations within ten years. They shall also compensate the owner for any defects that threaten the solidity and the safety of the building if the contract does not include a longer period".

This text clearly shows that the Jordanian lawmaker has put the responsibility on the contractor, and the engineer who produces the architectural design only. As such, the lawmaker has narrowed down the scope of personal responsibility and has limited it to the contractor and the architect although the architectural process has been carried out by several engineers who have different specializations. Those people also have contracting agreements with the building owner, and therefore, they should be engaged in this personal responsibility for the sake of protecting the owner's interest as well as the public interest. It is worth nothing that the civil engineer plays a leading role in the execution and supervision of the work. Therefore, it is necessary to amend the aforementioned text, thus expanding the scope of personal responsibility to include all engineers employed in the building processes.

In conclusion, this study explained the provisions of responsibility of the contractor and the engineer. It specifically pointed out the penalty involving the responsibility: compensation of the building owner for any damages caused during the execution whose conditions are spelled out, or through implementation in its two forms: cash and non-cash. The study also investigated the implications of selecting the engineer's and the contractor's responsibility. That is only possible if the *force majeure* is proved or it's the owner's mistake or the mistake of the others which also has the nature of *force majeure*. Finally, the study dwelt on the role of will in amending the provisions of this responsibility. It was found that conditioning or agreement on limiting the responsibility or exempting from it may not be permitted and any condition demanding otherwise is considered legally null. However, the owner has the right to exempt the contractor and the engineer from compensating him when it's due.