The Legal Characterization of the Obligations of the Parties to Electronic Banking Payment Cards (Issuer, Consumer, and Merchant) and the Scope of Liability Arising Therefrom: A Comparative Analytical Study Between Iraqi and Iranian Legislation

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Abstract
This study aims to propose ways for regulation of the subject of Internet banking fee cards – the issuer (the bank or other financial institution), the services (the card owner), and the vendor (the card accepting entity) by conducting an approximate comparative analysis of the Iraqi and Iranian legislations. I formulate the research question based on the fact that despite the increasing use of photoelectric payment cards in investment and commercial activities, the alternative liabilities of the subjects of fee card relations are not explicitly enough formulated, leading to controversial cases of technical errors, misusing, privacy violation, and delays. Using the method of comparison of the relevant regulatory legal acts of the countries, I reveal the factors that affect the subjects of fee card relations. The results of the research show that the Iranian law is more detailed in terms of regulating and supervising the activities of the issuer and detailing the kinds of criminal liability. Iraqi law, in its turn, lacks the detailed formulation of the rules on the responsibilities of the subjects of fee card relations and the ranges of their liabilities, which needs to be improved by legislative acts.

Keywords: Electronic fee cards, commitments of the issuer, commitments of the services, commitments of the merchant, banking responsibility and commitments of Iraqi law, commitments of Iranian society.

Introduction

The rapid development of information and knowledge science has led to a fundamental change in ways of discharging financial responsibilities. Paper and golden coins are no longer the unique way of fee; photoelectric fee agents, especially Internet banking fee cards, are developed with the ruling classes and now play an increasingly important role in the existing financial life, as services have been transformed from a real sense of official value circulating for one appropriate management into new electronic forms, in which the value of finances is stored in a semiconductor crystal embedded in a label carried by the services (Al-Janbihi & Al-Janbihi, 2007; Al-Ghannam, 2003).

While a previous study by one of the authors identified permissible volumes of these cards, as well as the allocation mechanism, the current one will focus on a related but substantially different topic, namely, the specific obligations deriving from this three-party relationship, the issuers-services-dealers, and in particular the limits of their liability and criminal responsibility in case of damage – this factor being the lever through which regulation acts on this type of interaction. Notably, the development and spread of such cards were promoted not only by the mathematical revolution that has taken place in the investment and finance sectors, as well as the appearance of domestic and international settlements, operating on an electronic platform, but also by the drive of banks to optimize cash management, to reduce costs, and to increase the speed of transactions, as well as the fiscal policy revision in force in a number of countries, including Iraq and Iran, which has made cash transactions more complicated and prompted the need for alternatives.

This rapid development has been accompanied by the equally rapid but less noticeable process of legitimizing its preconditions and foundations, resulting in the need to adapt legislation to catch up with innovations in order to regulate new relations that emerge and develop. Thus, studies on the regulation of the subjects of regulation of electronic banking fees turn out to be a scientific and practical necessity, since their current level is determined precisely by the acute need to define the prerequisites for the development of a balanced system of regulation of banking relations in the two countries under consideration. In this context, the precise formulation of the concepts associated with the regulation of electronic banking fees turns out to be a condition for achieving a compromise between the need to stimulate innovative technologies and the protection of the rights of cardholders, which is why the current research is relevant. To reach the goal and tasks, the article uses an approximate comparative and contrasting method of analyzing the features of the legislative frameworks of the countries under study.

1. Problem Statement

The main issue with the research presented is the fact that the use of photoelectric fee cards provides incentives in misaligned and multiple responsibilities with allure bodies, while the allowed rules that govern these obligations are typically vague either on the nature of each responsibility or the punishment adscribed to the allure gap. The problem is exacerbated in the Iraqi standard due to the absence of a particular law regulating cyberbanking fee cards (Al-Shoura, 2009), leaving the scientist to rely on Banking Law No. (40) of 2004, the Civil Code No. (40) of 1951, and the Electronic Signature and Electronic Transactions Law No. (78) of 2012, none of which were designed to directly address such an issue.

The Iranian standard, by comparison, seeks to cover this loophole by the Electronic Banking System Regulation and antagonistic-money-laundering guidelines issued separately by the Central Bank, but short off at the level of a universally binding accord. Several sub-questions then emerge in relation to this issue that require consideration, among them being, for example, the ambiguity of the legitimate grounds for the card issuer's liability for breaches of the payment mechanics; the lack of a clearly stated distinction between the bank's general responsibility for the performance of services and its responsibilities for protecting the PIN security; and the controversy over the definition of the merchant-issuer partnership, which has so far failed to bring the warring parties to a common ground. The issues are exacerbated, as per Al-Qudmani (2002), precisely by the tendency of photoelectric payment devices to enter the realm of cashless, increasingly global, transactions, among them notably the mathematical wallet or contactless payment cards, and entail further questions about the extent to which the responsibilities vis-a-vis established card payment instruments should be attributed to the state.

2. Significance of the Study

The necessity of the study is primarily explained by the fact that clarifying the responsibilities of each of the bodies involved in electronic fee labeling is the basic assurance that services rights on the individual help are well-protected, and the investment movements are given due support on the other. The ambiguity in allocating any particular duties (Bashnaq, 2006), however, has rather negative consequences on the level of public trust in this newly emerging concept and its capacity to attract followers, as well as establish profitable transactions based on its utilization. The idea becomes even more reasonable when one realizes the additional value electronic cards bring to the table, ranging from fighting the informal economy and increasing household purchasing capacity to enabling various local and international commercial operations. Moreover, the significance of the paper becomes even more prominent when one considers the fact that it seeks to contribute to the improvement of the current state of affairs in Iraq by providing the local legislators with a detailed description of the existing inconsistencies in the supervisory framework, addressing the issue from a potentially more progressive Iranian perspective. In so doing, the research spares the decision-makers the effort of conducting independent academic studies on the topic and actually helps them design the future legal framework for electronic fee card transactions in Iraq. Finally, the importance of the study is justified by the fact that it actually fills a gap in the existing Arabic and Iranian literature on the subject, which, until recently, failed to provide a comprehensive understanding of the responsibilities of the three bodies involved in photoelectric fee card transactions from either a civil or criminal law perspective, let alone the combined one, which is precisely the goal of this particular research endeavor, distinguishing it from its predecessors.

3. Hypothesis

The underlying rationale for this research is that the obligations of electronic payment card parties (as parties of means or parties of result) should be explicitly stated, and particular criminal liabilities introduced for data security breaches, if effective legal protection is to be achieved. The research will be based on the assumption that Iranian law has greater deterrency effect than Iraqi law, as it introduces more specific liabilities. The hypothesis will be tested by comparing the legal frameworks of these jurisdictions and analyzing their implementation.

4. Objectives

In the context of the presented problem, importance, and theoretical framework of the research, the current study aims to achieve any of the following integrated goals, which can be generally summarized in such points:

- ❖ Identify the essential and additional liabilities imposed on one issuer of an photoelectric payment scheme under two together Iraqi and Iranian standards.

- ❖ Clarify the liabilities imposed on the services (cardholder) and the extent to which they are subjected for one test of personal interest.
- ❖ Explain the correlated nature of the obligations of the merchant and their permitted source, set in the idea of precondition for the benefit of a third party.
- ❖ Reveal the lines of civic and criminal responsibility following from rift of these liabilities in two together legal wholes under corresponding.
- ❖ Propose lawmaking solutions fit curing the inadequacies found in Iraqi statute close to accompanying its Iranian match.
- ❖ Explore the associations of recent mechanics growths – mathematical wallets, artificial intelligence, and principal-bank mathematical currencies – for the existent system of responsibilities.

5. Literature Review

The research contains a complete review of any of the earlier studies related to the study subject, ultimate meaningful of that grant permission be rehashed, in addition to their points of union and difference from that study, in this manner:

1. Issam Hanafi Mahmoud Moussa (2005): “The Legal Nature of Credit Cards”. Focuses on the permissible relationships that emerge around the credit cards with the entities issuing it, emphasizing the legal side of the cards possession through investment organizations. Converges accompanying the study in term of the permissible relationships between bodies, but differs from it in being centered on credit cards alternatively photoelectric fee cards mainly, in addition to not providing the parties’ responsibilities in a particularized, approximate category.

2. Abdul Hakim Ahmed Mohammed Othman (2007): “Provisions of Credit Cards in Law and Islamic Jurisprudential Opinions”. Focuses on the permissible norms governing credit cards within the Islamic jurisprudence belief. Concurs the study on the accepted subject of fee cards but differs from it by collecting Islamic jurisprudential belief alternatively a approximate analysis of two helpful permissible methods.

3. Hussein Al-Qudmani (2002): “The Legal Regime for Payment by Bank Card over the Internet”. Focuses on the regulations governing WWW located card fees. It is nearly the study in term of resolving the permissible management of fee cards, but it is centered entirely on the internet fee outside a orderly approximate situation of the responsibilities of the three bodies.

4. Hussein Saad Kazem Al-Bahadli (1404 AH): “A Legal Analysis of the Provisions of the Bank Credit Card Contract Between Iraqi and Jordanian Law”. Focuses on the supplyings and permissible belongings of the credit card contract within the Iraqi and Jordanian standard. It concurs the study in adopting the approximate method and in allure interest in Iraqi standard, but it compares Iraqi regulation accompanying Jordanian, not Iranian, standard, and is enclosed to the credit-badge contract alternatively electronic fee cards in their fuller sense.

5. Naba Rahim (1396 SH): “The Effect of the Linkage Between the Bank Card, the Issuer, and the Customer”. Focuses on the effect of the credit card on the connection middle from two points the emitting body and the customer, directing on offenses guide cards in the way that counterfeiting, stealing, and deception. Concurs the study in term of addressing the issuer-cardholder connection, but allure basic focus is the criminal measure, inasmuch as the study addresses the obliging-allowable dimension alongside the criminal, inside a approximate foundation connecting two allowable orders alternatively individual.

6. Abolfazl Sharifi (1396 SH): “An Examination of the Legal Relationships of Users of Bank Cards”. Focuses on the legal relationships emerging from the use of bank cards, ATMs, and points of trade. Converges strikingly accompanying the study in labeling bureaucracy’s core aspects (issuer, possessor, one who receives), but it is enclosed to Iranian standard outside contrasting, whereas the study is definitely approximate.

7. Akbar Ezazi (1391 SH): “The Law Governing Bank Credit Cards”. Resolves existent allowable models for the credit-calendar contract inside the non-usurious Iranian investment whole. Suits the study in pursuing a clear permissible foundation but it is limited to Iranian law and to credit cards particularly.

8. Pejman Hosseini (1398 SH): “Electronic Banking, Electronic Payment”. Focuses on the fundamental ideas and mechanics systems latent up-to-date investment duties. Converges with the study in respect of photoelectric fee, but allure basic focus is the mechanics and applied measure alternatively the exact permissible description of the bodies’ responsibilities.

9. Mahboubeh Abdollahi & Ali Ahmadi Sajjadi (1393 SH): “A Comparative Study of Bank Obligations in Electronic Funds Transactions”. Compares banks responsibilities in electronic finances-transfer undertakings across as

well individual allowable order. Converges accompanying the study in its approximate methods and allure devote effort to something the bank's responsibilities expressly, but it does not address the responsibilities of the services or merchant in the alike level of detail, nor does it contain Iraqi society inside allure approximate outlook. It is clear from the foregoing that, whereas these studies converge accompanying the research from differing angles, they distinct from it in that each focuses either bought but not paid for cards to the expulsion of other means, on a alone permissible plan outside corresponding, on the criminal measure to the expulsion of the civil-allowable measure, on mechanics facets alternatively exact permissible description, or on the obligations of a alone body to the forbiddance of the possible choice. The present study is outstanding by allure study of the obligations of all three bodies together (issuer, services, and broker) and allure drawing of the civic and criminal responsibility emergent therefrom, inside a orderly approximate foundation expressly betwixt Iraqi and Iranian society(Al-Sanhuri, 1981).

6. Research Questions

- The research asks for answering the following fundamental question: What responsibilities stand for the bodies to an e-banking fee ticket and what is the range of responsibility resulting from its rupture under Iraqi and Iranian regulations?
- Several questions arise from the fundamental one, which can accompany similar ones from previous research (Al-Qudmani, 2002; Rahim, 1396 SH), ultimately outstanding being: – What is the nature of the issuer's responsibility of confidentiality and disclosure, and what infringements relate to it by the laws of Iraq and Iran?
- To what extent are the services responsible for negligence in ensuring the ticket and allure PIN, and are these two responsibilities different in the standard regulating the emergence of liability? – Does the nature of the broker's responsibility imitate that of the issuer and the services, or does it conflict from two components concerning allure permissible beginning?
- What is the allowable effect of the importance of notification of stealing or deficit on the allotment of responsibility betwixst issuer and services (Al-Hajjar, 2002)?
- To what extent can the Iranian model be used in Iraqi law in this field to eliminate the shortcomings of the Iraqi model?

7. Key Terms

Methodological rigor requires that the principal agreements around that the research revolves be outlined in this manner. The "issuer" is the bank or economic organization authorized to issue the photoelectric fee sheet and perform the permissible relationship emergent for that reason. The "services" or "cardholder" is the everyday or allowable life in whose name the card is circulated, or the one is approved to use it, and the one is bound toward the issuer to settle the profit of undertakings developing from allure use. The "shopkeeper" is the body that accepts payment apiece sheet in return for ability or aids it provisions, pursuant to different contract accompanying the issuer. "Obligation," in the circumstances concerning this research, refers to some permissible duty set in accordance with the law or contract on individual of the bodies to the friendship, whether an responsibility of quickness (wealth) or an responsibility to solve a delineated result (ends) – a fundamental distinction fated in near future relied upon regularly in resolving the type of each responsibility examined in this place study.

8. Methodology

The research uses the approximate examining method by providing the appropriate allowable texts of Iraqi and Iranian legislation, resolving their content, and equating bureaucracy to identify points of similarity and difference, thus determining the adequacy of each plan in meeting the responsibilities of the parties involved in cyberbanking fee cards. In addition, the research uses the inductive arrangement, which derives general rules from specific provisions of the two agreements of two separate methods substitute (Al-Ghannam, 2003) and the critical pattern to evaluate the ability of each legal structure to achieve a balance with the interests of the contracting entities, thus establishing an integrated report that expands on additional mere writing to the suggestion of appropriate lawmaking resolutions (Al-Janbihi & Al-Janbihi, 2007).

9. Structure of the Research

To achieve the objectives of the presented research, the whole work has been separated – from now on Introduction – into ten key sections. The first one provides a short theoretical background concerning the photoelectric fee label and attraction bodies. The second deals with the responsibilities of the issuer, according to the Iraqi and Iranian standard (Ahmed Al-Sayed Labib Ibrahim, 2009). The third section considers the responsibilities of the consumer. The fourth and fifth parts address the minor responsibilities of the retailer and the scope of the liability emerging from the rupture, respectively. The sixth section covers the additional mechanism bodies and messenger burden. The seventh part provides the approximate fault-finding assessment. The eighth deals with unique cases and service care, the ninth compares legal criteria, and the tenth one contains the tripartite relationship along with the general approval and conclusion.

10. Scope and Limitations of the Study

This research confines itself to the responsibilities deriving from the utilization of e-banking fee cards in their current form (smart cards, combined with an embedded stock photoelectric unit) outside giving painstaking consideration to other forms of mathematical fees such as cryptocurrencies or instant-fee structures, which are applied through a mobile application, exclusive of the tangible ticket (Zarei, 1389 SH) providing permission for the subject of further studies. Likewise, the research confines itself to a comparative analysis coming from two points, namely Iraqi and Iranian jurisdictions, outside taking into account the differences pertaining to other existing systems, with the possibility of further studies comparing the responsibilities associated with the two systems to the general ones applied within the European or Gulf regions; thus embellishing the academic discussion on the said ever-evolving topic (Al-Safi, 2026).

Section One: A Conceptual Introduction to the Electronic Payment Card and Its Parties

An reasoning of the responsibilities of the bodies to an e-banking fee poster must be foreshadowed by a brief report of the idea of the card and allure bodies, this being a unavoidable entrance to understanding the type and beginning of the responsibilities called thenceforth (Al-Ghannam, 2003).

1.1 The Concept of the Electronic Banking Payment Card

The photoelectric fee poster is defined as a up-to-date resources of depiction dictated by concerning details progress; it is a warehouse of monetary profit kept digitally so concerning be accessible for next exchange in undertakings, and is technically composed of a card for shopping without cash outfitted accompanying an photoelectric thought permissive the storage of photoelectric wholes right for the discharge of reduced-advantage debts. Jurisprudence has disagreed as to allure allowable character, middle from two points a style concerning it as a new type of money as a result allure operating the functions of a whole of report, a currency, and a store of value, and another flow concerning it as a new resources of acting organized on the services's right to demand that the issuer convert the units into legitimate bills – the latest being the dominant academic view.

1.2 The Parties to the Electronic Banking Payment Card

The system of the photoelectric fee card rests upon three principal bodies, with whom twisted legal connections stand:

1. **The Issuer:** the bank or fiscal institution constitutionally authorized to issue the check, bearing defeater in competition share of responsibilities as the body controlling the technical and supervisory foundation of bureaucracy.
2. **The Consumer (Cardholder):** the natural or permissible individual the one obtains the card to use it in discharging finances responsibilities, whose correspondence is the object of special concern apiece issuer.
3. **The Merchant:** the body that accepts payment by calendar in return for ability or aids it supplies, allure responsibilities being connected to a separate contract accompanying the issuer.

From these three bodies stand multiple reciprocal friendships: the issuer–services relationship, the services–retailer connection, and the trader–issuer relationship, each accomplishing allure own distinguishing obligations, expected expanded in the portions that follow.

Section Two: The Obligations of the Issuer of the Electronic Banking Payment Card

The issuer of an cyberbanking fee program, which dominates the production and circulation of the agent, bears a comprehensive set of the obligations, which can be detached into the responsibilities related to the program at the stage of its distribution, and the responsibilities related to the supply of service during the entire period of the end user's using the product of cyberbanking.

2.1 Obligations of the Issuer at the Stage of Issuance Under Iraqi Law

2.1.1 The Obligation to Deliver the Card

Delivery of the photoelectric fee card, accompanying allure card for shopping without cash and correctly loaded wholes, to the services is the first responsibility carried by the emitting body, because only thenceforth can the consumer create fees to the dealer utilizing the electronic wholes. The issuer transfers the card for shopping without cash in addition to all the tools essential for allure cover, freedom, and confidential use, and must guarantee transmittal to the services independently so that the check does not attempt another's hands. Possession of the poster is moved by material, not constructive, transmittal, the issuer relinquishing property apt the services in a manner permissive the latest's use of it for private purposes (Al-Ghannam, 2003).

Because acting is connected with confidentiality, the services recording a PIN at the named point on the smart card, the issuer is obliged to provide the poster accompanying the ploys and software indispensable for forging and ensuring the PIN, and enabling the services to change it occasionally. For the badge to function via the method of payment, the issuer is obliged to provide the services with all the mechanics finishes needed for allure movement, in order to prevent record of the dossier from being wrong, and is answerable for some damage deriving from technical defects not attributable to wrong producing, being obliged to provide the necessary equipment on a right to use basis; the issuer cannot evade this obligation, save by proving that it has supplied such forms in a condition hold right to use. A distinction must be drawn between damage deriving from defects of the label, for which the issuing body is likely to be held responsible, and damage deriving from mechanics fault of which the services had been previously informed, for which the issuer's responsibility is excluded (Al-Hajjar, 2002).

2.1.2 The Obligation of Disclosure

The issuer should disclose all information and news about the use of the photoelectric payment poster, including the names of the brokers involved in the fees, the locations where the calendar yields the possibility of being used secondhand, the maximum loading limits, and the places that can be reloaded. Additionally, this information applies to other transaction service providers not directly related to the poster, but the card is accepted with fees for each case. The latter should also be available to the public, presented clearly and concisely. This information relates to the poster itself, including the opportunities for secondhand use of the card, the names and addresses of brokers involved, the cost of reloading, and the maximum amounts of cash reloads. The responsibilities of the issuer of the card do not end here; he must also ensure the constant and uninterrupted flow of information to these transaction service providers from the card's issuing company to provide the data needed for card transactions. Additionally, the issuer must also disclose all information about the limitations of the use of the poster.

2.1.3 The Obligation to Enable the Consumer to Block the Card

The emitting entity shall be obliged to stipulate the services with orders and forms enabling the consumer to block the badge totally, in case dowry needing this, e.g. a hazard, erroneous performance, or utilization by an intermediary by deception or fraud. The issuer shall itself organize such procedures, or via another entity on allure project and control, since they shielding the services's economical estate from deficit; the issuer is bound to grant the services with maneuverings enabling notification of stealing or misfortune in consideration of prevent maleficent utilizing by remainder of something, such announcement systems superbly being available continual alternatively only all the while the institution's trade hours.

2.2 Obligations of the Issuer Connected with the Provision of Service Under Iraqi Law

2.2.1 The Obligation of Banking Confidentiality

Aiding and maintaining the secrecy and privacy of consumers ranks among the absolute primary responsibilities of one issuing organization because customers must be assured that any information relating to bureaucracy, either individual or connected with their financial matters, cannot be exploited for the issuer's own benefit or obstructed and falsified in the course of transit through channels. As such, the issuer cannot disclose any confidential data on the services provided and deposits made, in conformity with Article (49) of the Iraqi Banking Law No. (40) of 2004, which states that "the bank shall maintain secrecy regarding all information on customers' deposits, reports, and reliable-deposit boxes within its custody, and it shall be prohibited from disclosing any of this information directly or indirectly without the express consent of the service user or his/her legal representative or upon the order of an empowered judicial official or the public prosecutor in a competent court in regards to an imminent dispute… and this secrecy shall be maintained even in the aftermath of terminating the relationship between the consumer and the bank for any reason whatsoever." However, this prohibition is not absolute, as there are three exceptions, including disclosure upon the consumer's explicit consent or that of his/her permitted agent, the competent administrative officials tasked with regulating the issuer's activities requesting such information, and finally, an order from an empowered judicial entity in a dispute.

2.2.2 The Obligation to Convert Electronic Units into Real Currency

The issuer shall have an unconditional obligation to the cardholder to convert into cash the payment means represented by the card not yet converted into cash upon the cardholder's or the merchant's request, i.e., to perform a so-called 'redemption.' The objective of this obligation is to protect the cardholders from the issuer's risks associated with the issuance of the card and to prevent the card owner from becoming a shareholder in the card issuer's rogue company. On the one hand, the issuer undertakes this obligation to the cardholder, and on the other hand, the issuer is obliged to convert the payment instruments upon the cardholder's request, except in the case of theft or loss of the card and informing the issuer of this fact. The redemption is performed at the nominal value of the payment means presented for redemption, and the cardholder is not entitled to receive any compensation for the costs incurred.

2.2.3 The Obligation to Notify the Merchant

The issuer is bound to inform trader dealing in the ticket of allure stealing or misfortune immediately upon taking notice thereof from the services. This announcement produces a two-fold effect: first, alerting the broker that any undertaking transported through the ticket following in position or time the notification is nefarious, permissive the broker to refuse partnership in specific transactions; and second, repairing the point at that the issuer's responsibility starts, the services remaining open for the results of undertakings happening before the notification reaches the issuer, while the issuer bears the results of those happening from that time forward (Al-Shoura, 2009).

2.3 Obligations of the Issuer Under Iranian Law

Iranian requirement is outstanding by its growth of the issuer's responsibilities to include unambiguous mechanics, security, and supervisory ranges, based on the Electronic Banking System Regulation (ie, the cyberbanking order) issued on 22/12/1386 (sh), that is with the most meaningful supervisory texts in this place field.

2.3.1 The Obligation to Ensure the Security of the Electronic System

Article (4) of the Regulation states that the central bank, in coordination with the Ministry of Communications and Information Technology, is responsible for ensuring the security of online banking services in accordance with international standards; this does not absolve money banks of their responsibilities with regard to transactions that take place within this particular jurisdiction, but instead require them to safeguard the consequences stemming from deficiencies in consumer information, full encryption of all functions, as well as the management of the label’s expiration time from the date of issue to its termination or cancellation. Failure to comply with this security obligation entails liability under article (741) of the Islamic Penal Code, in addition to article (13) of the Computer Crimes Law promulgated on 5/3/1388 (SH), which penalizes unauthorized use of photoelectric systems in the context of any number of choices ’ proceeds or data, including visual infractions such as the counterfeiting of card data using reading devices at points of sale or ATMs.

2.3.2 The Obligation to Expand Infrastructure and Provide Non-Presence Payment Channels

Article (7) of the Regulation obliges the Iranian banks to finalize secure non-presence payment gateway including telephone banking, banking applications and internet banking within a specific time from the date of issuing the Regulation. Moreover, article (8) requires the banks to offer the needed tools for all non-presence payment gateways for settling and receiving transactions through cards. In addition, article (9) mandates the banks to allow their customers to pay all kinds of utilities including water, electricity, gas and taxes through the ATMs in a way that enables the use of other bank cards. Finally, according to article (10), the Central Bank is obliged to draft necessary instructions about comprehensive credit cards to be used in different banks.

2.3.3 The Obligation of Documentation and Record-Keeping

Article (12) of the Regulation requires the Central Bank to provide unified table for handling and storing dossier, relating to all of the consumers' ebanking undertakings, whereas Article (143) and allure Note (2) stipulate that organizations should store all of the information, documents and records, which in theory allow reconstruction of the chain of undertakings, which took place in case of necessity. This stipulation creates the fundamental cornerstone of legal proof as long as of a dispute, whereas the bank is obliged to store aforementioned records for a outlined ending, which is necessary to be retrieved and reviewed by the means of internal audit units, Central Bank auditors or legal expertises (Fayez Naeem Radwan, 1990).

2.3.4 The Obligation to Combat Money Laundering and Ensure Regulatory Compliance

Article (5) of the Anti-Money Laundering Law of 1386 (SH) demands all open and allowable individuals to implement antagonistic-money-laundering measures, identifying upon the issuer a two-fold assignment having to do with the use of the badge on the individual help, and the machine of such use and allure harmony accompanying the regulation on the different. Note (2) of Article (50) of the Executive Regulation of Article (14) of the Anti-Money Laundering Law, circulated in 1398 (SH), adjoins that “men covered must give up killing some fiscal or photoelectric undertaking namely not detectable,” thereby remodeling the standard of traceability from a mechanics test into a binding permissible standard, gap of that gives make even civil and criminal burden. The bank must authorize a specific within part for antagonistic-services-laundering and examination, charged with constant listening of undertakings and the standard of comparison of breaches to the able experts.

2.3.5 The Obligation to Provide Continuous Technical Support

Article (13) of the Regulation demands banks to demonstrate a mechanics-support center operating continual to accept customer discontents and askings, meaning that the friendship betwixt the issuer and the services is a ongoing individual that does not end accompanying the mere distribution of the ticket, but demands continuous ideas and an joined plan for the next management of questions, technical deteriorations, and safety breaches. Article (14) further demands banks to conduct knowledge campaigns to experience all on by means of what to use the label, freedom measures, and the steps to be naive case of misfortune or compromise.

2.4 A Comparative Analysis of the Issuer's Obligations in the Two Systems

The previous comparative analysis indicates that the issuer's responsibilities under Iraqi law consist of a pure permissible type bounded by the vague rules of contract law and banking regulations, while Iranian organization goes beyond this framework toward an integrated supervisory-freedom type, which ties the issuer's responsibility to the national interests of the state in terms of financial security and combats corruption, as demonstrated in several articles in the Iranian penal code (Article 741), which do not find their equivalence in the Iraqi law, regulated by the detailed provisions of the Penal Code No. (111) of 1969.

Section Three: The Obligations of the Consumer (Cardholder)

In return for the issuer’s obligations, the services-cardholder has liabilities falling under three main categories: liabilities incurred in connection with the personalization of the ticket, liabilities incurred in connection with the taking up of the check against any fraudulent use, and finally, liabilities incurred in connection with conduct (fee) (Issam Hanafi Moussa, 2005).

3.1 Obligations Related to the Personal Character of the Card

3.1.1 The Obligation of Disclosure

The obtain emitting an electronic fee program is a contract of individual consideration (intuitu personae), the poster being accepted on the footing of the issuer’s trust in the distinguishing similarity of the services, who is not accepted the poster missing the verification of sure environments. The services must, honest and faithful, disclose all facts concerning welcome identity, containing welcome correct name, address, declaration, financial standing, and weekly or annual profit, and, usually, must supply all information unavoidable to explain welcome personal and economic standing, at which the issuer’s allow contract is based, and must inform the issuer of some after change in such dossier. Where the news provided proves erroneous, the issuer’s consent enhances vitiated by accident as to the body or by falsehood, entitling the issuer to inquire annulment of the contract in addition to rectification place authorized.

3.1.2 The Obligation to Observe the Personal Character of the Card

The program is strictly personalized; only the services to which it was assigned, with whose name it is printed and whose sign is performed shortly, can benefit from its use. This assignment is manifested in two aspects: first, the responsibility of the services for signing the ticket, either by hand, which should be differentiated from the sign on the back of the ticket, or by remote access and PIN entry at a specified speaker, which is considered equivalent to a manual signature; and second, the private use of the poster, since the obligation to use within a private is one of the standard terms of all types of linked contracts because the transfer of the check to one's use, even to the husband or children appendages, is prohibited and equal to the services's allowable liability.

3.2 Obligations Related to Securing the Card Against Unlawful Use

3.2.1 The Obligation of Proper Use

The services is bound to use the card brought to him correctly, similarly the issuer's instructions and for allure named purpose; this responsibility extends further absolute agreement with allowable conditions to respect for all commands circulated by the issuer now and then, either having to do with reloading locations, recently weakened shopkeeper, or maximum reloading limits. Any improper use of the badge shows the services liable for some happening damage or division, and the issuer is entitled to retire the poster upon rift, the card being medicated, in this place respect, as similar to a deposit, failure to safeguard that shows the services a unfaithfulness (Abdul Hakim Othman, 2007).

3.2.2 The Obligation to Safeguard the Card and Its PIN

These services must ensure that the poster remains protected once it has been taken from the issuer, allure using a private matter concern him, and, consequently, must hold it safe since it does not come possible choice 'hands, observing the issuer's commands concerning the guardianship of the PIN. The responsibility for the card's safety is, therefore, differentiated as the responsibility of alertness (responsibility de moyens), the responsibility for which the cardholder is answerable for negligence and failure to take due care, whereas the obligation to safeguard the PIN is categorized in the law as an obligation of result (obligation de résultat) with increased responsibility on the part of the services from the very fact of its disclosure.

3.2.3 The Obligation to Notify upon Theft or Loss

The obligation of announcement is among the ultimate main obligations set on the services, because it enables the issuer for fear that use of the poster, either for cash withdrawal or fee. The meaning of this announcement display or take public allure being the decisive determinant repairing the burden of both issuer and services: the services remains open for the monetary results of transactions transported through the check until announcement is likely, while burden shifts to the issuer thereafter, the latest being bound to block the sheet (Bashnaq, 2006).

3.2.4 Securing the Card Under Iranian Law and Its Link to Criminal Liability

Unlike other countries, Iran's regulation involves a particular feature that connects this obligation with corresponding criminal liability. It is confirmed by the statement of the Public Relations Department of the Central Bank of Iran about "transactions and transfers through cards and accounts of banks that are entirely subject to the responsibility of their owner, and in no case can be considered as lending an account or credit card to another person," issued in Dey 1397 (SH). According to the Islamic Penal Code of Iran (Article 710), providing an account or card for unauthorized transactions for unlawful purposes constitutes complicity in the crime, which is subject to criminal liability as an accomplice. In particular, if someone rents an account or card for online betting, money laundering, or tax evasion, this action will be punishable by the same penalties as the main offense's perpetrator. In addition, according to Iran's jurisprudence (Rahim, 1396 SH), there are three types of unauthorized use of someone else's card, which are categorized as different crimes. First, if a card owner leaves his PIN code open, thereby allowing another person to withdraw money from his account without any manipulation, it is classified as a minor theft. Second, if the card owner confides in a person or reveals his card, but the trusted person misuses this information and exceeds his limits, it is defined as a breach of trust. And third, if a person finds out someone else's PIN code using technical equipment, he commits both an offense of minor theft and an electronic crime.

3.3 Obligations Related to Performance (Payment)

3.3.1 The Obligation to Prepay the Value of the Electronic Units

"The consumer shall pay the issuer in consideration of the real money of the units that he wants to load on the card before the issuance takes place. This is because the issuance of the units by the user takes place only after the consumer has paid the amount due by him to the issuer; this is known as prepayment. The latter is the guarantee of the legal security on which the trust enjoyed by the merchant in the means of payment is based and which ensures him that the electronic units will not be rejected as a means of payment and which at the same time guarantees the consumer that the units will not be rejected for lack of means of payment "(Fayez Naeem Radwan, 1990).

3.3.2 The Obligation to Return the Card

The card belongs to the issuing organization. In this regard, the consumer has an unconditional obligation to return the card upon termination of the agreement, whether expired or canceled by the bank's initiative or the client's initiative. The card should be returned to the issuing organization when its validity expires. In addition, the consumer is obliged to pay for all transactions made after the card's expiration, and in case of violation, the bank can impose sanctions.

3.3.3 Performance Obligations Under Iranian Law and Traceability Requirements

The Iranian society requires that a proper condition be met for engaging in some lucrative activity involving more than certain amount of money-four billions riyals for ordinary men and ten billion riyals for eligible guys, according to Articles (10) and (11) of the issued investment transparency regulation related to the investment file provided by the Central Bank of Iran, which obliges ending the 'reason' field in the relevant forms and providing advocating documents clarifying the nature of the economic activity or the rationale of efficiency, along with consistency copies in the investment file. Moreover, Article (15) of the anti-money laundering directive for commercial companies and non-financial entities requires the services to be transferred into the bank account of the reported entity directly, without routing through an intermediary or any unauthorized transfers, thus preventing their utilization for other undisclosed purposes.

Section Four: The Merchant's Incidental Obligations and the Scope of Liability Arising from Breach

4.1 The Incidental Nature of the Merchant's Obligations

The trader's permissible position clashes from that of two together the issuer and the services, as the seller's responsibilities do not stand straightforwardly from the card-distribution contract but moderately from the contract connecting it to the issuer (the agreement-of-fee contract). The broker is bound to acknowledge fee in photoelectric wholes from the cardholder outside impressive supplementary charges or favored fixing on cash-repaying customers, and to confirm the lawfulness of the wholes secondhand by achieve the issuer's table, while the issuer, in proper sequence, is bound to supply the mechanics resources of agreement, to warn the seller of the authentic processes and demands for using and recognizing the program, to acknowledge immediately to some barriers met, and to convert the wholes it endures into legitimate cash (Al-Qudmani, 2002).

One of the theories is that this friendship is a supply contract; this assumption is wrong due to the fact that a supply contract includes that the seller accepts a fee outside any right to refuse it or to ask for an alternate cash fee, while this contradicts the supply contract definition. The majority of scholars consider that this friendship is a precondition for the benefit of the mediator, whereby the services by being assigned to the recipient mediator gain a direct right against the trader (the promisor) established the arrangement decided middle from two points the latest and the issuer (the stipulator) in accordance with the general rules stipulated in the Article (152) of the Iraqi Civil Code, which states that “one grant permission contract in welcome own name for obligations designated for the benefit of a mediator place he has a private interest, either material or moral, in the accomplishment of aforementioned responsibilities.”

4.2 The Merchant's Obligations Under Iranian Law

The relationship between the merchant and the issuer under Iranian law is governed by the service level agreement established by the first article of the electronic banking system regulation, which stipulates indicators, standards, and guarantees of service, as well as continuous technical support. Based on this agreement, the merchant is obliged to adhere to anti-money laundering instructions. In particular, according to Article (15) of the Anti-Money Laundering Directive, commercial organizations and non-commercial institutions should make deposits to their associated account, without resorting to intermediary or fictitious accounts, and at the same time keep all the documents confirming the contract’s terms and legality of their business, according to the Know Your Customer principle. In this case, the bank is obliged to check the customer’s identity and verify this information before providing the services of cashless payment acceptance.

4.3 Civil Liability Arising from Breach of Obligations

Breach apiece issuer of one its responsibilities (transmittal, announcement, confidentiality, recovery, announcement of the merchant) gives make even permissible responsibility requiring rectification for damage contingent the services or merchant, similarly the approximate rules of contractual debt under Iraqi Civil Code No. (40) of 1951. Likewise, rift apiece consumer of allure responsibilities – specifically negligence in insuring the poster or its PIN – results in the services posture the results of transactions happening before the date of announcement of stealing or loss, while responsibility shifts to the issuer for undertakings occurring thenceforth, given the issuer’s defeat to promptly block the check is settled. Where the shopkeeper breaches its responsibility to recognize payment or to confirm the genuineness of the wholes, its allowable burden stands toward the issuer under the supply or acceptance understanding middle from two points bureaucracy, and may likewise stretch to liability toward the services place allure breach causes direct harm.

4.4 Criminal Liability Under Iranian Law as an Advanced Model

The approximate study demonstrates the benefit of the Iranian constitution in connecting the violation of program-safety duties to particular criminal penalties. Article (741) of the Islamic Penal Code stipulates that utilizing photoelectric plans to misappropriate the funds or dossier of potential choice is punished by restricting liberty and imposing a fine, and Iranian legislation recognizes inter alia the previously mentioned forms of program abuse (inconsiderable appropriation, dishonesty, and double annoyance). This specific determination is missing in the Iraqi act, which partially incorporates the provisions of Penal Code No. (111) of 1969, as amended, without specifying the offenses related to the photoelectric fee cards, resulting in the relevant responsibilities being at risk of misinterpretation in analogous cases and improper punishment.

Section Five: Ancillary Technical Parties and Intermediary Liability

The system of the photoelectric fee card is not confined to the three original bodies (issuer, services, and shipper); ancillary mechanics bodies intervene who play a substantial part in the emergence or demise of the movement, despite the fact that they are not directly involved in the regular contract service, thus raising the issue of the nature of their responsibilities and the extent to which they are liable to the issuer (Ahmed Al-Sayed Labib Ibrahim, 2009).

5.1 Payment Service Providers and Point-of-Sale Devices

A POS machine is a concept defined in Iranian law as connecting the services report to the dealer account by the main investment method, admitting direct and next transfer funds and granting permission not to be equipped or performed unless a license and contract concluding with an authorized bank are signed, similarly to paragraph (m) of the first item of the cyber-banking arrangement regulation. The connection middle between the two points, the exporter and the housewife of this help, is managed by a aid level arrangement that comprises performance indicators, value principles, corrective penalties for default and guarantees of continuous mechanisms support. The Iraqi regulation lacks a particular managing concerning this connection middle and leaves the question to the general rules of the contract, raising realistic problems in determining responsibility for some mechanics failures that occur along the period of usage and whether the bank concerned, the supplies temporary company or the exporter himself is to be considered as the one accountable.

5.2 The Issuer's Liability for the Acts of Ancillary Technical Parties

A exact allowable question arises concerning in consideration of the issuer's responsibility for the acts of the technical individuals it employs to function the system, to a degree internet access provider, dossier-processing parties, and controllers of social payment networks. The dominant academic view is that the issuer remnants liable toward the services and the shopkeeper for some failure in the killing of a undertaking happening from these entities, goodbye as they keep under allure supervision or in accordance with allure contract accompanying them, requesting the standard of another liability for the acts of individual's powers, upon any less condition than the issuer proves that the damage stood from an extrinsic cause further its control, to a degree uncontrollable event or the sin of the injured party itself.

5.3 The Know-Your-Customer Obligation as a Shared Duty

The responsibility to establish the identity of the bodies (Know Your Customer) emerges as a joint obligation underpinning from two particular points, namely, the issuer and the shopkeeper under the Iranian structure: a bank should verify the services's similarity upon emitting the card, and should also confirm the merchant's correspondence upon stimulating fee-acceptance aids, through protecting the economic structure from taking advantage for money laundering or the expenditure of wrongful ventures. This obligation falls under the documentation responsibility mentioned above, deriving from the fact that a transaction's proof lacks any advantage missing prior proof of the similarity of its bodies (Al-Baghdadi, 2008).

Section Six: A Comparative Critical Evaluation of the Adequacy of Legal Protection in the Two Systems

6.1 Points of Convergence Between the Two Systems

The Iraqi and Iranian systems touch on several key points that are similar; most significantly these are: the setting of the prepayment criterion as a condition for issuing the note and acceptance of the shopkeeper’s legality; the confirmation of the confidentiality of the investment as a common standard subject to specific violations; the formulation of the individual-recognition criterion for the services’s obligations; and the introduction of next notification as the decisive factor in allocating responsibility between the issuer/services in the case of theft or misfortune. This coincidence explains the completeness of the theoretical basis that underlies the inexact rules of the contract in both systems, since they are subject to the joint application of one standard of Islamic rules of government and the rules of civil regulation folklore.

6.2 Fundamental Points of Divergence

The main difference ‘between two collective schemes is displayed in three aspects. First of all, the level of detail of lawmaking: Iranian regulation presupposes a set of executive managing (circulated) circulated apiece regional bank and updated rhythmically, while Iraqi standard leaves out some particular requirement, confiding alternatively on accepted provisions that were not planned for this purpose. Secondly, the level of equivalence ‘between community responsibilities and criminal burden: the Iranian senator easily criminalizes patterns of defilement of label freedom responsibilities (items 741 and 710 of the Penal Code), while the Iraqi council member depends the approximate provisions of the Penal Code in the absence of a particular supplying. Thirdly, the level of unification accompanying macroeconomic procedure: the responsibilities of the issuer in Iran are an basic part of a civil planning to combat services laundering and subversive payment, while this connection is missing or weakened in Iraqi legislation.

6.3 A Critical Evaluation of the Iranian Model

In general, the essential difference ‘between’ two together blueprints appears in three aspects. First of all, the level of law of a government detail: the Iranian standard is settled a set of executive directing (flowed) flowed for individual local bank and restored lithely, while the Iraqi standard lacks few distinctive directing, looking forward by preference on customary supplyings that were not constituted for this purpose. Secondly, the level of equating middle from two points society maturities and criminal trustworthiness: the Iranian lawgiver surely criminalizes patterns of rift of diary care trustworthiness (articles 741 and 710 of the Penal Code), while the Iraqi representative depends the inclusive supplyings of the Penal Code in the insufficiency of a distinctive furnishing. Thirdly, the level of consolidation following macroeconomic strategies: the maturities of the issuer in Iran are an complete contained a kind operation to combat duties laundering and destructive expenses, while this link is still absent or ineffective in Iraqi constitution.

6.4 A Proposed Unified Legislative Framework for Both Countries

The research hypothesizes that any unified law on web banking payment cards, either in Iraq or Iran, comprises five essential elements: first, a specific and detailed description of the ticket, its bodies, and electronic wholes; second, a particular formulation of the obligation of each body; third, a special theme allocating the division of responsibilities concerning the security of information, linking it with the criminal liability for precise punishment; one of four equal parts, a specific supervising method to ensure the bank’s conformity following transparency and traceability principles; and having five of something, an joined consumer-guardianship government comprised of the option to contest any suspicious actions within an intelligent ending and an immediate compensation for damages not corresponding to the consumer’s responsibilities.

The authors also argue that the practical importance of such lawmaking consolidation cannot be underestimated in terms of promoting longers to direct economic belongings: clarity in obligations and sharing of liability will cause international financial organizations to make the most of the domestic investment program with a greater sense of security, attract investment into the monetary-science sector, and eliminate excessive costs associated with recurring disputes regarding the permitted nature of relationships through photoelectric payment cards. At the same time, the absence of the aforementioned legislative clarity negatively affects the rates of economic addition, as many people are simply reluctant to use the modern instruments of achievement due to potential losses of their rights during the emergence of an authoritative but questionable allowable foundation, which further proves that legislative perfection described by the authors is not merely an exercise for academic indulgence but rather a necessity driven by the requirements of sustainable economic growth in two together countries.

6.5 The Cost of Regulatory Compliance and Its Effect on Smaller Issuers

It must be stressed that extending the scope of the supervisory and freedom obligations imposed on the issuer beyond the level established by Iranian society entails the economic and organisational costs associated with the introduction of specialized anti-services-laundering services, the development of progressive encryption and verification mechanisms, and the training of personnel qualified in their operation. These costs could prove prohibitive for small banks or young financial institutions, deterring them from quoting their shares on stock exchanges and issuing photoelectric payment cards, or driving them to use third-party payment processors, which is unsuitable for ensuring transaction security, thus undermining the effectiveness of the entire structural regulation mechanism (Toubia, 2000).

The authors simultaneously believe that any anticipated constitution, be it in Iraq or Iran, should respect the principle of proportionality between the authority of the issuer and the control responsibility by it, through an accepted, objective method, which relates the level of the required project and agreement to the concrete risk of each organization, instead of imposing one homogeneous standard for all the issuers, regardless of the content of their activities, in order to reach the necessary balance between the needs of commercial security, for each particular case, and the requirements for competition and development, regarding the electronic banking services, on the other hand.

Section Seven: The Scope of Obligations in Special Cases and Consumer Protection

7.1 The Issuer's Obligations When Issuing Cards to Non-Residents Under Iranian Law

Another detail in the issuer's responsibilities may be exemplified by the specification related to the Central Bank of Iran and authorized banks or exchange companies about providing the opportunity to issue temporary and renewable cards which may be loaded by the foreign currency entered into the country by tourists and investors in the form of rial-denominated bank cards in 29/ پ of the Production and Infrastructure Financing Law approved in 1402 SH. According to this specification, the Central Bank of Iran, in coordination with authorized banks or exchange companies, should provide the opportunity to issue temporary and renewable cards loaded with the value of the foreign currency for this category of cardholders, with the option of cashing the balance of these cards in the rate of the central bank at the card’s expiration. Another aspect of the Central Bank of Iran’s responsibility within the framework of this specification is the necessity to check and document the source of currency on which the card is loaded, confirm the identity of the card owner as a foreign tourist or investor, and ensure the traceability of this card to prevent its use for illegal financial transactions or circumventing currency regulations.

Iraqi law does not have an equivalent regulation to the one discussed for the issuance of payment cards to foreigners or non-residents, which is another gap that needs to be addressed, especially given the increase in foreign investment and religious and commercial tourism in Iraq (Hedayati, 1378 SH).

7.2 Consumer Protection as the Overarching Aim Governing the Parties' Obligations

In their concluding arguments, the obligations to the issuer, the services, and the exporter are not disinterested from a singular encompassing idea, the guardianship of the services as the weaker body to the permissible connection, specifically within a contract predominantly from stickiness. This guardianship is manifested in various aspects: first of all, necessitating the complete and easily comprehensible disclosure of the terms of use by the issuer; second, giving the services the ability to block the poster quickly and effortlessly; third, establishing an exact dividing point (announcement) for apportioning liability for lawless use; fourth, obliging the issuer to offset any additional payments in real cash, outside the framework of any predomination or deductions; and finally, by virtue of something having five of them, according to the Iranian standard specifically, granting the services the right to contest dubious transactions within a defined ending, the violation of which would constitute a belief of latent allow the transaction.

7.3 Obligations Related to Personal Consideration Under Iranian Law: A Supplementary Analysis

It is famous that the legality Iranian law associates the liability of the individual consideration to the program accompanying the test of supremacy over governmental bills, passage (W) of Article (58) of the standard of the Central Bank of Iran, affirmed in 1402 (U), that states that "some required or business-related trustworthiness that grants consent is decided only through cultural cash, accompanying some condition inferior what the organizing stipulates alternatively or, An alternative end."It follows that the use of the PV fee label intending the procedure of choice for work still depends on the attraction of being lifeless to the very individual keeper of your right inside, what few use that happens except for this groundwork steals Alor pledge allowable cover and exposes Alor guardian to a burden, even the rank concerning this results from accidental carelessness in claiming the secrecy of welcome dossier.

Section Eight: Comparative Judicial Precedents in Applying the Parties' Obligations

8.1 Iranian Judicial Precedent in Cases of Card Misuse

A Iranian legal practice entails the use of judgments that demonstrate the efficient liability of the card holder's obligations and the limits of his criminal responsibility. One such example may be seen in the sentence carried out by the individual of the criminal breaches in Tehran (Branch 1173). The latter was brought to court in connection with the unauthorized use of a credit card to perform a fraudulent transaction. In particular, the defendant was sentenced to the prison for two ages, in addition to an extra unrestricted penalty to cover the value of the illicit withdrawal, due to the fulfillment of the elements of the crime that included both the trivial theft and the photoelectric deception, as the accused acquired the check illegally and later used it to deprive the victim of his cash assets. Such a decision shows that the Iranian courts do not confine themselves to a general explanation of the distribution of responsibility for misappropriation of the card, but rather impose an accurate criminal description based on the nature of the action performed by the offender in question, in compliance with the articles 741 and, where applicable, 710 of the Islamic Penal Code.

The Iranian courts, when determining the cardholder's liability in cases of negligence, may also rely on the standard of the reasonably careful customer when it comes to the examination of the welcoming investment dossier. In particular, the latter is justified in assuming that the cardholder left the PIN easily accessible to others or disclosed it to a third party without any apparent justification. As such, he remains criminally liable for the fraudulent use of his card, despite the lack of intention to allow such a scenario to occur, due to the level of gross negligence on his part that exceeds the degree of caution expected from a responsible cardholder and deprives him of the protection normally granted to the holders in such cases.

8.2 The Absence of Specialized Judicial Precedent in Iraqi Law

By contrast, Iraqi jurisprudence is yet to develop clear criteria for assessing the emergence of friendships established through web banking fee cards, particular disputes places they take place being interpreted by the alternative of the comprehensive rules on permissible and tortious debt in the Civil Code or the comprehensive rules of the Penal Code with the singular exception of a section defining the general principles of crimes of misappropriation of a photoelectric fee check. This divergence is partly explained by the preciosity of this instrument in the Iraqi investment retail as compared to its Iranian counterpart, and the consequent lack of typical acts necessary to provide the courts with clear jurisdiction over such cases.

8.3 Lessons Drawn from the Comparative Judicial Analysis

This approximate legal analysis leads the research in the end that the life of distinguishing, itemized legislation – as in Iran – allows courts to cultivate exact, graded precedent considerate to the particularities of each case, inasmuch as the deficiency of specific legislation – as in Iraq – boundaries the courts to comprehensive rules never planned to address the troubles of the digital surroundings. This emphasizes the imperative need for Iraqi lawmaking intervention that keeps pace at this moment happening and equips the courts accompanying the permissible tools inevitable commotion lawfulness to everybody to the relationship.

8.4 The Principle of Proportionality Between Penalty and Harm in the Iranian Judicial Model

Recent era has seen a significant number of incidents related to the means of verifying the similarity of the photoelectric-fee-card possessor. In this regard, the transition from a card-based investment system that operated on the principle of PIN code introduction to the two- and multi-factor authentication devices, which implies the involvement of something the customer knows (a PIN), something the customer owns (a mobile device or a dynamic token), and something the customer is (a fingerprint or a facial recognition pattern), is rather consistent. This transition, in its turn, directly affects the content of the obligation of the issuer to ensure security: not only does the obligation remain to provide a reasonably safe environment for the card's operation, but now it extends to the need to adopt the most comprehensive security measures known globally. Otherwise, the failure to do so would violate the obligation to provide a reasonably safe environment for the card's operation, since it would contradict the principle of good faith and fair dealing and the requirements of the banking practice, even if local laws do not explicitly stipulate this necessity (Abdollahi & Ahmadi Sajjadi, 1393 SH).

The authors are of the opinion that this officially qualified formulation may be useful in the case of elaborating a criminal law provision for the Republic of Iraq on photoelectric fee cards, since it allows one to refrain from a purely textbook formulation of the offense that would cover all its manifestations and at the same time to leave the punishment discretion to the court in order to individualize the criminal liability depending on the seriousness of the crime and the damage it caused, which is entirely consistent with the principle of equality of all citizens before the law.

Section Nine: Implications of Modern Financial Technology for the Parties' Obligations

9.1 The Evolution of Authentication Tools and Its Effect on the Issuer's Security Obligation

The recent age has witnessed significant changes in the ways and means applied to verify the similarity of the photoelectric-fee-card owner. In particular, the transition occurs from trust in the static PIN (Personal Identification Number) to the recognition technologies elaborating on the two- and multifactors authentication principles. To illustrate, alongside something that the user knows (a PIN), the issuer introduces something the consumer possesses (a cellular phone or a dynamic verification token) and something the user is (the biometric identifier, e.g., a fingerprint). Such a phenomenon raises crucial questions concerning the issuer's responsibility to ensure the security of the transactions. More precisely, the absolute safety of the conventional means (i.e., the PIN code) can provide a sufficient level of the consumer's protection no more. Therefore, to prevent the unauthorized interference with the user's account, the bank should respond to the ever-growing complexity of the fraud detection mechanisms and adopt the up-to-date standards of the global banking practice. Otherwise, the issuer will fail to meet its obligation to guarantee the security of the transactions. Furthermore, this responsibility cannot be waived by the national laws that govern the contract of the photoelectric-fee-card issuance and imply other standards of the banking activity. In particular, the Iranian banking practice is guided by the principles of good faith and fair dealing that underline the parties' actions in the contract of the photoelectric-fee-card issuance (Abdollahi & Ahmadi Sajjadi, 1393 SH).

9.2 Digital Wallets and the Extent to Which Card-Related Obligations Apply

Modern financial technology has generated payment instruments related to but different from the electronic payment card, such as the digital wallet, in which the card information is stored in a cell phone and accessed by near-field-communication technology. The question then arises whether the issuer's obligations to the cardholder also apply to such an instrument. The prevailing view is that it is the nature of the payment instrument that determines the extent of the issuer's obligations, not the form. Thus, the issuer owes the same duties to the digital wallet as to the payment card because the former serves the same purpose as the latter: storing monetary values and allowing the cardholder to use them right away. In addition to the duties listed above, the issuer owes the cardholder additional duties concerning the security of the application in which the digital wallet is stored.

9.3 Artificial-Intelligence Fraud-Detection Challenges and Their Effect on the Apportionment of Liability

A growing number of banks, including some of Iran's leading financial institutions, are turning to artificial intelligence algorithms and analyzing patterns of behavior to detect fraudulent actions in real-time, stopping them before they occur. In the context of this phenomenon, the question arises as to whether the failure of an issuer to adopt such cutting-edge technologies, despite their availability and relative affordability, does not constitute negligence on their part, allowing for claims of damages resulting from fraudulent activities that could have been prevented if the technology had been in place. The authors' view on this issue is that such an assessment is justified, as the level of due diligence that an issuer must exercise in fulfilling their obligations under an investment contract is not fixed but varies depending on the degree to which it is technically feasible to apply new technologies that have proven usefulness in the business environment.

9.4 Central Bank Digital Currencies and Their Prospective Effect on the System of Obligations

The growing number of announcements by the central banks, including the central bank of Iran, regarding their intend to issue their own official Central Bank Digital Currencies (CBDCs) will, according to the study, have a profound impact on the bureaucracy obligations related to the ones discussed below. The official digital currencies, which involve unique parts held on a chip card issued by a monetary authority, are directly transferred to one financial expert and exert complete allowable, as opposed to only original, discharging capabilities, which may alter the permissible description of the distribution relationship, reshaping it from a permissible relationship middle from two points a marketing bank and allure customer into a friendship of a accepted monetary integrity straightforwardly ruled by central-bank regulation (Abdollahi, 1396 SH). However, the authors consider that the center obligations found in this place research – disclosure, secrecy, acquiring the mechanism against unlawful use, and next announcement – will remain working even place the emitting entity changes, because these obligations emanate from the character of the mathematical tool itself and the necessity of defending allure user, alternatively from the particular rank of the issuer. This highlights the significance of the lawmaking framework proposed in this place research as one worthy fitting to some future evolution in the character of photoelectric payment mechanisms, either circulated by commercial banks or straightforwardly apiece monetary expert.

Section Ten: A Synthesis of the Three Bilateral Relationships and the Interaction of Obligations Among Them

10.1 The Issuer–Consumer Relationship: Reciprocity and Balance of Obligations

Examination of the connection betwixt the issuer and the consumer tells that the responsibilities within are not unidirectional, but exchanged and theoretically equalized, even though the useful balance tilts in the issuer's favor by virtue of allure patent over the mechanics and informational foundation. While the issuer is at the mercy of transfer, revelation, confidentiality, recovery, and the permissive of obstruction, the consumer is similarly answerable honest revelation, proper use, preserving of the badge and allure PIN, immediate announcement, and money given beforehand. It is notable that the real point of balance betwixt the reciprocal responsibilities display or take public the importance of notification, at that responsibility shifts certainly from one body to the different, making accuracy in managing and evidencing the announcement means a important matter for any charter pursuing to realize the asked contractual balance.

10.2 The Consumer–Merchant Relationship: Performance as the Central Axis

The middle relationship between two points of the services and the merchant is based on a single fundamental criterion: the payment of the price for the services rendered to the retailer. By the authors' previous study, the allowable variant of this activity was defined as either the services' credit's ending upon the simple transfer of the photoelectric means or the opposite discharge's appearing only after their conversion into honest cash. This classification set the transfer of the wholes as a definitive discharge based on the services' and shipper's common intention to entitle the means as the instruments of efficiency, where the obligation of the issuer is to shift bureaucracy into the accessible currency at the dealer's demand. Based on the service responsibilities given in the research, the services hold the sole fundamental responsibility for ensuring the trafficker's access to the non-repeated units while being entitled to verify their authenticity and recognize ruling class without any additional compensation.

10.3 The Merchant–Issuer Relationship: Technical-Service and Settlement Obligations

The two parties to the payment card organization relation are the merchant and the issuer. The former's key obligations include the right to install the necessary technical means for accepting the card and to settle the transferred funds within the established timeframe. Meanwhile, the latter's primary responsibilities are to observe the issuer's constraints, including verifying the customer's identification data in large-value transactions, retaining the relevant documents, and not misusing the system for illicit purposes. As previously mentioned, this relation is noteworthy in that it involves both private-law and the regulatory framework, thus making it different from the standard purchase-sale agreements, and closer, in some respects, to the franchise arrangement (Zarei, 1389 SH).

10.4 The Interaction Among the Three Relationships and Its Effect on the System of Obligations as a Whole

This reasoning suggests that the three friendships, despite the liberating nature of their surface appearance, are naturally pertain specific that the responsibilities of any individual body cannot be implicit away from from those of the added two: the consumer's gap of the announcement responsibility straightforwardly influences the issuer's obligation to inform the dealer; the issuer's rupture of the revelation responsibility may unintentionally drive the services toward misuse of the label; and the wholesaler's defeat to verify the genuineness of the wholes can fool the issuer responsibility that would not otherwise have stood except for this default. Hence the need that some bill regulating this plan treat the three sets of responsibilities as an joined whole alternatively separate parts – a need that current Iraqi statute manifestly forsakes to meet, and that Iranian measure inquires, even though only partially and across sporadic requirements, to achieve.

Findings

The responsibilities that arise from electronic banking fee cards can be divided into three permissible positions: the issuer, the services, and the merchant. Each of these sides occupies an unfettered legal status regarding the emergence, nature, and permissible outcomes of liability. Under the regulations of the country of Iraq, the responsibilities of the issuer hold a primarily typical permissible character, including information transmission, disclosure, confidentiality, reimbursement, and notification to the merchant.

- By the comparison, the Iranian regulation provides more comprehensive coverage by establishing the indicated responsibilities to explicitly include protection, administrative, and agreement obligations, particularly regarding the necessities of anti-services laundering and the care of digital investment foundation.
- The services's obligations in two together permissible structures are primarily ruled apiece principle of individual concern, as the poster is intended for use only by allure legitimate owner. However, Iranian law connects more direct criminal results to breaches of these responsibilities, classifying misuse

according to a granted a degree pattern of burden, including trivial stealing, unfaithfulness, and combined criminal conduct.

- The services's responsibility to continue the physical fee label is properly typified as an responsibility of quickness, requiring tolerable care and caution. In contrast, the burden to care for the personal unique identifying number is more suitably top-secret as an obligation of result, agreeing the general comparative legal approach, on account of the authoritarian confidentiality and safety connected to the PIN.
- The broker's obligations are of a similar nature and arise from the concept of obligation for the benefit of a mediator. The obligations of the broker do not derive directly from the time of issue contract between the issuer and the services but rather from a separate permissible connection between the shipper and the issuer.
- The Iraqi statute contains no specific law that regulates the use of electronic banking fee cards. Instead, the law that governs the use of these financial instruments emanates from various sources, including the Banking Law, the Civil Code, and the Electronic Signature Law. On the other hand, the Iranian constitution explicitly links violations of the security measures for the banking sheet to criminal responsibility as demonstrated by Article 741 of the Penal Code.
- The Iraqi law, on the other hand, either explicitly criminalizes similar offenses committed by means of the electronic medium or resorts to the Penal Code in order to deal with them. Despite the relatively progressive supervisory approach, Iranian legislation fails to provide a uniform law that would be specifically devoted to photoelectric fee cards.
- The obligations of the appropriate bodies wait fragmented across various requirements, instructions, and legal tools.
- Precise allowable characterization of each body's responsibilities is essential for saving public confidence in photoelectric fee schemes, safeguarding the rights of consumers and fiscal organizations, and reinforcing the establishment and dependability of banking movements in two together Iraq and Iran.

Conclusion

In the present study, it was concluded that the system of cashless banking card, despite the increase in the volume of financial transactions and the speed of their processing, requires an urgent solution in the form of a regulatory framework that would explicitly define the responsibilities of all subjects and the limits of their liability associated with gaps in the system, thereby ensuring the safety of transactions and protecting the rights of all participants in the system. The current research, based on an approximate analysis of the situation, reveals the shortcomings of the Iraqi system, and identifies solutions that can be found in a more detailed study of the Iranian experience, in part, but also warns about the pitfalls that are inherent to it. Thus, the findings and recommendations of the research are presented below.

Recommendations

1) The Iraqi representative should be called upon to formulate a model law for electronic banking fee cards that explicitly stipulates the responsibilities of all parties and the extent of their civil and criminal liabilities.
2) A specific provision should obligate the issuer to keep cardholder information confidential and only disclose this information in cases specifically provided for by law, such as those described in Article (49) of the Iraqi Banking Law.
3) Iraqi banks should be obliged to set up technical service centers and response units to stop stolen or lost cards, as is the case in Article (13) of Iran's Electronic Banking Regulations.
4) Derogation from the responsibility for protecting investment information should be considered a distinguishing feature of criminal liability in accordance with Article (741) of the Iranian Penal Code instead of applying general provisions of the Iraqi Penal Code.
5) The provision concerning consumer education about check security responsibilities as well as response mechanisms in the case of theft or negligence should be canceled.
6) An institutional structure similar to that of Iran's adversarial money-laundering monitoring system should be created to monitor compliance with traceability and transparency rules for fee-label transactions.
7) Iraqi regulations should explicitly state the card-issuing merchant's friendship as the benefit of a third party so as to prevent different interpretations of this article.

8) The Iranian deputy should be encouraged to consolidate all the provisions on separate issues into an entire law that would be comprehensive enough for Internet banking payment cards.
9) The Iraqi bank staff should obtain training in responding to cases of tampering with photoelectric payment cards.
10) Legislative and supervisory synergism between the two jurisdictions in photoelectric payment-card management should be promoted to maximize the interests of both countries in the growing cross-border trade.
11) To conclude, the authors believe that implementing these recommendations will require not less sincere government and lawmaker interest in consumer protection and security of the trade as the cornerstone of economic development, while the exchange of legislative experience ‘between Iraq and Iran in this matter will help establish a more integrated and sustainable legal framework for regulating electronic banking fee cards and mathematical resources of payment in particular, thus promoting the mutual interests of both countries in the development of cross-border trade.

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