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SHAREHOLDERS LIABILITY SUBSEQUENT TO LIQUIDATION

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Abstract

This study will be based on the analytical descriptive research method for the provisions of the Jordanian Companies Law and its amendments No. (22) Of 1997 ("Companies Law"), with the use of some Jordanian and Arab legislation and judicial decisions related to this subject when available and when necessary.

The Jordanian Companies Law was subject to several amendments and additions. However, the legislations and laws are man-made and therefore they are not Holy Scriptures and can't be free from loopholes and legislative gaps that call for research and investigation to promote them to a better and higher level. And under this regard, the Jordanian legislator did not include any article in any legislation regarding the shareholders liability for debt that appears on the Limited Liability Company ("LLC") after liquidation and dissolution in respect of the stock corporations as an example, which is a legislative deficit that I have decided to, investigate and base my this article on.

Keywords: Law, Jordanian Legislation, Liquidation, Limited Liability.

JEL classification: G33, K2, G19.

1. Introduction

The amendment of the national laws to comply with international legislation is one of the factors that attract international investments and stimulate domestic investments. Therefore, we see that the Jordanian Companies Law has been amended to comply with local and international developments as reflected in the Amended Interim Law No. (4) Of 2002, Amended Interim Law No. (40) Of 2002, Amended Interim Law No. (74) Of 2002, Amended Interim Law No. (74) Of 2003 and Amended Law No. (57) Of 2006. However, as I mentioned above, the legislations and laws are man-made and can't be free of loopholes and spaces and that's why it will require updates and amendments all the time.

In recent years there has been an increase in the number of liquidation cases, especially in light of successive changes in the international trading system and its impact on the national legal systems and on the economic performance of countries, especially developing ones and when we take a deep look on the companies debts matter, a lot of questions and speculation will be raise which I will be discussing in this article, especially the claims by the creditors of the limited liability companies after dissolution and liquidation in the absence of settling all its incurred debts regardless of the reason.

In reference to the provisions of the Jordanian legislation and laws in this regard, we will see that the Jordanian legislator did not address any case for the shareholders responsibility for debt that appears on the LLC after liquidation and dissolution arising from its work, which makes

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such cases unheard based on denial only after fifteen or ten years from the maturity of debt whether the debt is civil or commercial.

1.1 Objectives of the research

The main point of this article is that the Jordanian legislator did not address the issue of the shareholders responsibility for the debts of the LLC after liquidation and dissolution.
And the most important questions that will be raised in this study are: -
Is there a specific limitation period in the Jordanian legislation for cases against the shareholders in the stock corporations after liquidation and dissolution?
Does the fact that such claims were not addressed or mentioned in the legislations undermine investor's trust toward limited liability companies?
Is it possible to find a legal way to prevent this legislative gap?

1.2 Reasons for choosing this subject

The justification that led to choose this subject is that the Companies Law is one of the elements of attracting foreign investments and stimulating national investments as it represents the legal framework for commercial companies, which is one of the most important commercial activities in the country. When looking at the legislations governing such companies, we see that they have been divided into two categories: the first category included the individuals companies, which are based on the personality of the partners and the mutual trust between them such like the general partnership, limited partnership company and limited partnership in shares and the second category included the stock corporations, in which the personality of the partners won't take any consideration and anyone can contribute in its capital.
Stock corporations are characterized by legal personality, which means that such legal person is capable of acquiring rights and bearing obligations same as the natural person with a legally competent and independent financial capacity of the partners.
In view of the above, the partners in the individual companies are considered responsible for the debts of the company and its obligations with their personal funds, unlike the stock corporations in which its partner's liability is limited by the amount of their contribution in the capital of the company.
The Jordanian legislator did not include any article and did not address any legislation regarding the shareholders liability for debt that appears on the LLC after liquidation and dissolution in respect of the stock corporations, which is a legislative deficit that I have decided to, investigate and make my research on it.

2 Limited Liability Companies

Neither the Jordanian Commercial Code No (12) of 1966 nor the Companies Law explicitly defined the meaning of the Company. However the Jordanian Civil Code No. (43) Of 1976 provided specifically in article (582) a definition for the Company, where it states that "*The Company is a contract by virtue of which two or more persons each undertakes to contribute in a financial project by providing his/her share of property or work in order to exploit that project and share the loss or profit that results there from*."

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According to the Jordanian legislations, the companies are divided into two parts, the individual companies and stock corporations, where the prevailing or predominant consideration is taken as a base for the division, so if the financial consideration is prevailing in the composition of the company and its division, then it is considered as a stock corporation such like the public shareholding company and the private shareholding company. On the other hand, if the personal consideration of the partners is the basis of the company and without it the company may be affected or can't accomplish its objectives, and the financial consideration is comes in a second stage and not stable as well, then it is considered as an individual company, such like the general partnership company, limited partnership company and limited partnership in shares.

As for the Limited Liability Company which is the subject of this research, it was defined in the Companies Law No. (22) Of 1997, specifically in Article (53) which stated in paragraph (a) "The *Limited Liability Company is composed of two persons or more. The Company's liability shall be considered independent from the liability of every shareholder in it. The Company's assets and property shall be liable for its debts and obligations. The liability of any shareholder therein for these debts, obligations and losses is limited to its shares in the Company*." This type of companies occupies an intermediate position between individual companies and stock corporations as it has a mix of the features of both types. Hence, it was considered as a stock corporation according to the Jordanian legislations.

However, the Limited Liability Companies are among the most prevalent companies in our business life. They have received a great deal of interest from small and medium-sized entrepreneurs who wish to carry out their projects under this type of companies, which in turn are managed and united by its shareholders. Also, these kind of commercial companies have emerged to keep abreast of the industrial and commercial development which has accompanied the growth of capitalism in the revolutionary technological development in industry and trade to satisfy businessmen needs.

As mentioned above, this type of companies is a combination of stock corporations and individual companies through approaching the stock corporations in terms of management and in terms of responsibility as well as choosing its name and attach the same of one of its objectives, but in re-turn if contains a difference that its shareholders shares can't be considered in the stock exchange because they are subject to certain legal restrictions and it can't be established or having its capital increase or borrow for its account through public subscription issue of shares or bonds. From the other hand, this type of companies is close to individual companies in terms of its incorporation rules that needs to be between a certain number and a limited number of shareholders whom know and trust each other and also in terms of non-transferring its shares until applying some rules and procedures.

Limited Liability Companies enjoy a number of features that can be derived from the legal texts that govern it. And hereby some of its most important features:

- **First**: the responsibility of the shareholder, where the liability of each shareholder in relation to the debts of the company is limited by the value of their share in its capital. The guarantee of its creditors is limited to its funds and does not extend to the

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shareholders personal funds. As a result, the shareholder in the Limited Liability Company is not considered as a merchant because he is a shareholder in an LLC. However, the Company as a legal independent entity from its shareholders is considered as a merchant and this is the feature in such situation.

- **Second**: The number of shareholders in the company. Article (53/a) of the Companies Law refers to this feature where it mentioned that this type of companies consists of two or more shareholders, whether they were natural or legal shareholders. Noting that an exception to this rule was mentioned in article (53/b) of the same law, in which it stated that "*The Controller may agree to the registration of a Limited Liability Company composed of one person only or which may become owned by one person*".
- **Third**: the capital of the Limited Liability Company was subject to several amendments as it used to be thirty thousand Jordanian Dinars as a minimum before being reduced to seven thousand Jordanian dinars and finally got reduced in 2011 to ONE Jordanian dinar as mentioned in article (2) of the Capital Determination Regulation for Limited Liability Companies of 2011, which provided that: "*The capital of the Limited Liability Company shall be determined in its Memorandum of Association and Articles of Association in Jordanian Dinars and it shall not be less than one Dinar*".

It is also noted that the Jordanian legislator did not set the maximum limit for the capital of the Limited Liability Companies but he provided a minimum amount of one Jordanian Dinar as mentioned above. Such minimum capital were meant to be as a financial guarantee to the company's creditors, and that's why the legislator did not set any maximum capital amount for the company's because the greater the capital is the greater the financial security of the creditors rights are guaranteed. On this point, a lot of researchers said that it is better to sit a maximum capital for this type of companies, which the legislator intended to restrict only for small and medium-sized enterprises, and this is a legislative deficiency that must be rectified because companies, which has a large capital, will prefer the other types of stock corporations such like private shareholding companies in order to be able to resort to public subscription and issuance of shares and warranties.

In this context, I note that the Jordanian legislator haven't granted the Limited Liability Company the permission to carry out the banks businesses or to have any objective for investing in others (third-parties) funds and operating them pursuant to the provisions of Article (93) of the Companies Law. The reason for that is that such businesses are related to third parties money and includes a lot of risks that require a strong general guarantee for the people who invest in it, which is not applicable to companies with limited liability. The legislator also did not gave the permission to the Companies General Controller to complete the registration of an LLC and publish such decision unless the partners provide a letter from any local bank stated that they deposited half of the capital of the company. However, if they did deposit the equivalent of (50%) of the capital, the law stipulates that they must deposit the rest of the capital amount within two equal instalments paid through by the following two years after the registration of the company as protection or guarantee for creditors. And it should be noted in this regard that in practice the partners withdraw the capital of the company after the completion of registration procedures.

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- **Fourth**: The types of shares, as the share of the Limited Liability Company are divided into equal shares and they may be either in kind shares (like providing assets, ex; car, land) or in cash.
- **Fifth**: The legal personality of the Limited Liability Company and its name. After the approval of the registration of the company and announcing such procedure in the Official Gazette, it shall be considered an independent legal entity with a nationality, domicile and financial authority to exercise all its activities to achieve the objectives for which it was established. And the company must take a trade name which is derived from its objectives -like the joint stock companies- and must add to its name the word "Limited Liability" ex; Flaska Limited Liability.

However, when it comes to the European Union ("**EU**"), it is a different way to start a new business because the local and harmonized legislations must be taken in consideration before establishing such kind of entities. And as a citizen with the EU member states, they got the chance to start their business by setting up their own business in any of the (28) member states even as a sole shareholder adding to that the availability to set up the entity in Norway, Liechtenstein and Iceland as well or by setting up a subsidiary for their existing entity which is already registered in any of the aforementioned states.

And as the Jordanian Companies Law asked for specific information which must be included in any company's Articles and Memorandum of Association, the EU company's directives also requested such thing and specifically in Directive 2009/ 101/ EC of the European Parliament and the Council of Europe issued on the 16th of September, 2009 where it requested that the minimum content of instrument of incorporation shall include:

- The type and name of the company;
- The objects of the company;
- When the company has no authorized capital, the amount of the subscribed capital;
- When the company has an authorized capital, the amount thereof and also the amount of the capital subscribed at the time the company is incorporated or is authorized to commence business, and at the time of any change in the authorized capital;
- Members of the bodies responsible for representing the company before the governmental entities and third parties; and
- The duration of the company.

Also, other information included or in separate document must contain the registered office, nominal value of shares, limitation on transfer of shares and the amount of the registered capital paid up at the time of formation.

As aforementioned, the last feature of the LLC which is gaining the legal personality may be considered the most important feature.

3 Liquidation of Limited Liability Companies

The word "Liquidation" has multiple meanings and definitions from the linguistic and conventional aspects. But generally it aims to settle the company's relations with others and settle the relations between the shareholders themselves and include the total operations that extend

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from the moment of dissolution and liquidation of the company to the stage of division of net funds. It also includes taken actions and procedures to fulfil the rights and repay the debts and obligations of the company which shall be settled and consequently the termination of its legal personality as a result.

And according to the liquidation scenarios which were mentioned in the Jordanian Companies Law, when a company are being under liquidation because of one of the legal scenarios it is considered as it entered a new stage and started a new phase of its life. This stage must be reflected negatively on the shareholders as it works to solve the legal bond between them.

As for the liquidation of Limited Liability Companies, the Jordanian legislator, in the text of article (76) of the Jordanian Companies Law, mentioned that Limited Liability Companies must follow the provisions of the public shareholding company in all that is not expressly stated in the provisions relating to the Limited Liability Company, so it shall be liquidated for the same reasons of the public shareholding company whether such reasons are optional liquidation according to the provisions of Article (259) of the Companies Law which stated:

"*A Public Shareholding Company shall be voluntarily liquidated in any of the following circumstances:*
a) Upon the expiry of the specified period of the Company unless the General Assembly issues a decision to extend the period.
b) Upon fulfilment or disappearance of the objectives for which the Company was established, or due to the impossibility of achieving these objectives or their disappearance.
c) Upon the General Assembly issuing a decision to dissolve or liquidate the Company"
or compulsory according to article (266) of the same Law which stated:
"*a) An application for mandatory liquidation shall be submitted to the Court by a pleading from the Attorney General, Controller or any person authorized by him in any of the following circumstances:*
1. If the Company commit serious violations of the Law or of its Memorandum of Association.
2. If the Company fail to fulfil its commitments.
3. If the Company suspend its operations for one year without a legitimate or justified cause.
4. If the losses of the company exceed 75% of its subscribed capital, unless its General Assembly issues a decision to increase its capital.
b) The Minister may request from the Controller or Attorney General to halt the liquidation procedures of the Company, if it reconciles its position before the issuance of its liquidation decision."

However, the Limited Liability Company could be liquidated optionally on the basis of a decision issued by the Extraordinary General Assembly meeting pursuant to the provisions of Article (67 /a) of the Companies Law, unlike the Public Shareholding Company.
The Limited Liability Company expires or gets dissolution (liquidated) for the same reasons as the public shareholding company as mentioned earlier. The Companies Law has defined these scenarios as follows:

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A. The expiry of the term of the Company.
   This period shall be stipulated in the company's Memorandum of Association and its Articles of Association. If the term is fixed, the Company shall expire accordingly and shall be liquidated.
B. The end of the company's work.
   When the company is established to perform a specific work in a specific manner and this is stated in its Memorandum of Association and its Articles of Association, it must be liquidated at the completion of such work.
C. The loss of all the company's money or the share of one of the shareholders before delivery, accordingly, if it is impossible to implement the purpose for which the company was established for, then it shall be dissolved by the force of law.
D. If the shareholders took their decision unanimously for liquidating the company. Such decision for liquidating the company shall be issued by the general assembly in an extraordinary meeting.
E. Adjudication of bankruptcy of the company, because it acquires the trader status, so if the company's work was disturbed and it couldn't pay its debts, then the adjudication of bankruptcy may be announced.
F. The issuance of a judicial decision to dissolve the company.
   If a judicial ruling issued by the court to dissolve the company, then it shall be dissolved and liquidated by force of law.
G. Merger, which involves the incorporation of two or more companies in another company of the same legal form or other form, so the merged company will be dissolved and the company will be merged with the merging company in this situation.
H. Collapse of the basis of multiple shareholders, and an exception to Limited Liability Companies based on the text of Article (53/b) of the Jordanian Companies Law discussed this issue in relation to such matter.
I. Deletion of the registration of the company.
   Such thing shall happen when the company stops working for a specified period or if it took a trade name which is registered in the name of another company or similar to it in a way that may cause confusion or fraud for the clients.

It is also worth to note that the Limited Liability Company can't be terminated for the same reasons of terminating the Individuals companies, such as the death, bankruptcy or initiating a pledge of any of the shareholders.

On another point of view, In Hungary, there are two different available proceedings for what so called insolvency or pre-insolvency proceedings. The initiation of such proceedings can only be held by the debtor company which shall be initiated for the purposes of establishing the bankruptcy against itself. The purpose of such thing is to be able to reconstructing the company and reorganization it in a way that it would ensure its further operations. As for the liquidation procedures, it can be initiated either by the debtor company or the liquidator or the creditor or by the court which is carrying out the bankruptcy proceedings. Noting that in certain cases, the competent court for starting these procedures shall be the registration court.

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Therefore, the procedures which shall be followed in the liquidation of Limited Liability Companies will be outlined in the second section.

4 Shareholders responsibility for company's debts subsequent to liquidation

4.1 The liability of the shareholders for the debts of the company subsequent to liquidation

As mentioned earlier, the Limited Liability Company enjoys its legal personality which grant it with rights and consequent obligations, which means that it may be sometimes in the position of creditor and sometimes in the position of the debtor, whether this thing happens during the process or during the liquidation phase or after completion.

Although of the advantages of the Limited Liability Company to its shareholders, it is unfortunate that it does not have strong guarantee (credit) in the commercial environment due to the limited liability of its shareholders and the weakness of its capital, which does not provide sufficient security for its creditors, as opposed to the companies that return the partners' funds such like the individuals companies and the shareholding companies that have the largest capital (private and public shareholding companies). It is also feared that Limited Liability Companies will take a cue to manipulate their clients' money when transactions are made by them in excess of their assets because their articles and memorandum of association does not allow their shareholders to be questioned when the company can't meet its obligations. Hence, such company may be considered as a way to evade responsibility and in turn to destabilize the credit on which economic activity is based.

As mentioned earlier, the capital of the Limited Liability Company is the sole guarantee of the creditors as a result of its enjoyment of the legal personality that separates its financial assets from its shareholders. The company is solely responsible for its debts and liabilities and the shareholders are not responsible for that in their own funds and assets but only with their shares in the company's capital. If the company's financial position is sufficient to repay all its debts and liabilities, there shall be no problem and the obstacle shall arise when its financial position is insufficient to repay such debts and liabilities. If the decision is made to liquidate the company and its funds and assets are sufficient to repay and cover its debts. In this case, the liquidator fulfils the partial payment so that it is distributed to the creditors according to the debt of each of them and with a specific percent, because it is not permissible for the shareholders to cover such debts with their own money because they do not guarantee the debts except to what has been mentioned previously. The question arises here about the debts that may appear on the Limited Liability Company after liquidation. What if it turns out that there are assets which were not mentioned during the liquidation process for the Limited Liability Company or obligations that have not been settled, or if there is a specific work that the company did not accomplish before being liquidated and solved. These are the obstacles that need to be solved.

And the debts that appear on the company after the liquidation has two scenarios, the first one is the debts that appear on the company after it has been liquidated and the second when there are debts on the company but has not been entered into the liquidation funds from the first step of the procedure, and in this context, multiple views were token in consideration and a lot of opinions were arise, as it was stated that the completion of liquidation and liquidation of the company is

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considered as a termination of the company's obligations against all the creditors, as soon as the certificate of liquidation was issued and it stated that the company is not existing anymore. Another opinion said that the liquidation of the company is not a reason for the termination of the commitment and responsibilities of the shareholders, whereas such shareholders remain responsible until the creditor's rights are not valid anymore because of the limitation prescription. It was also said that if it turns out that there are assets for the company which were not mentioned during the liquidation or not settled obligations, the company in this case shall regain its legal status and its legal personality in order to complete the liquidation properly. However, if the funds that did not enter the liquidation belong to the shareholders, in this case, the shareholders are the ones whom affected by such matter, where they have rights less than those that were handed over and divided among them. But if the earlier mentioned debt was belonging to others (third party) then the creditors are the ones who are affected by this liquidation.

There is other cases were the company's creditors are harmed, such like the provisions of article (257) of the Companies Law in its first paragraph, which states that "*Should any founder of a Public Shareholding Company, or chairman or a member of its Board of Directors, or any manager or employee thereof, abuse the use of the properties of a Company under liquidation, or retain that property or becomes committed for its repayment or responsible for it, then he shall be obliged to return it to the Company with the legal interest, and shall also be liable to compensate any damage caused to the Company or third parties, in addition to bearing the criminal liability imposed on him in pursuance to the legislations in force*."

Therefore, what if such thing were discovered after the completion of the liquidation procedures and after the end of the legal personality of the company? Are creditors' rights lost due to these actions?

The same article states in its second paragraph that, "*Should it appear during the liquidation that some of the Company operations were accomplished with the intention of defrauding its creditors, then the current chairman and members of the Board of Directors and the chairman and members of any previous Board of Directors of the Company who took part in those operations shall be considered personally liable for the Company debts and liabilities or for any of them as the case may be*."

What if this act was taken by one of the shareholders and at the same time he was not a member of the board of directors? Shall such shareholder be responsible in this situation with his own funds and money?

Based on the above, what is the possibility of recourse to the shareholders for the debts that appear on the Limited Liability Company after liquidation in these cases?

This lack of legislative is not only noted in the Jordanian legislations, but also in the European law as well. In this regard, Professor Tamas Fezer said: "*Cases in various jurisdictions analysed situations when the shareholders used their limited liability to maliciously satisfy their personal needs not in relation to the business activity of the company using the company's assets, cases*

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when the shareholders kept the management in tight leash and practically forced their will to them that eventually led to insolvency, and cases when the sole member of the company was found personally liable for the debts as the sole purpose of setting up a company was to create a scheme, a front to his malicious activity. A shareholder also was found liable for the company's debts and the doctrine on the corporate veil was pierced by the court when the shareholder made an economically destructive withdrawal. Such liability, however, can only arise if the shareholder intentionally inflicted damage on the company by withdrawing assets which would have been necessary to settle the company's debts, and that led to the insolvency of the company. All these cases have one thing in common: shareholders abused their limited liability, and this is why they were found liable. The concept of limited liability of shareholders traces to the original approach on companies that these entities are separate from their founders, therefore, they have their own assets and their own liability for the decisions private individuals make on their behalf."

4.2 Recourse to the shareholders for the company's debts subsequent to liquidation

Originally, companies are subject to general legal rules. But, if the companies are already existing and carrying out its objectives then the creditors and third parties claims would be subject to normal limitation prescription which is in the general rule after the passage of fifteen years from the day of the right accrual. However, the legislators came up with a point of view where the interest or trade and traders requires that the period of prescription shall be shorter than fifteen years, as the interest of trade calls for speed and facilitate the way to invest money in order not to waste the capital of commercial companies which are being liquidated.

According to Jordanian legislation, civil liability claims are not heard after fifteen years unless otherwise provided in the law. However, in relation to the trade obligations, the Jordanian Trade Law has dropped the right of prosecution for ten years from the date of fulfilment of the obligation unless otherwise provided a shorter period in the law.

As for the companies law in most countries, they stipulated a less than ten years period for the statute of limitations for trade obligations in relation to claims of recourse to shareholders after the liquidation of the company and its dissolution. The wisdom of this legislation is to shorten the term of these debts and settle them quickly. Hence, the Egyptian legislator as an example stated what is called the five-year limitation period in relation to claims of recourse to shareholders after the liquidation of the company and its dissolution. Such period of limitation applies to all shareholders in commercial companies, whether they are joint partners or as a Limited Liability Company shareholders, insofar as they have contributed to the company's capital. The five-year limitation period were also initiated for the benefit of third parties to face the shareholders in the company which has been liquidated and resolved, taking into account that this limitation is not considered to be a public order where the court does not rule on its own and must be raised by third parties or the shareholder if any of them wishes to adhere to it, and the five-year limitation applies on shareholders with limited liability and did not provide their share of all or some of the capital of the resolved company in addition to the importance of a relationship between the debts owed to the shareholders in the dissolved company and the work of the company (its objectives) while enjoying the legal personality of same. Such point of view

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were made in order to make sure that even if there is any money or assets that appears for the company after the liquidation procedures are done, this period shall be enough for the creditors to set their claims. Otherwise, such matter shall be settled and not heard before any court in the future.

I have reviewed previously what was mentioned in the legislation of the Arab Republic of Egypt regarding the possibility of recourse to shareholders after the liquidation of the company and its dissolution. However, when looking at the Jordanian legislation, I noticed that the Jordanian legislator in the Companies Law did not address any case of recourse to shareholders after the liquidation of the company and its dissolution, which leads that such claims can't be heard when denied upon fifteen years or ten years from the date of the fulfilment whether the debt is civil or commercial.

Also, the Jordanian Companies Law did not address the issue of prescription of the liquidation proceedings claims and lawsuits in which the liquidator is a party in such claims, due to the fact that it is not mentioned in this type of law except for the auditor's responsibility vis-a-vis the company, as stated in Article (201) of the Jordanian Companies law which stated "*The auditor shall be liable towards, the Company which he audits its accounts, its shareholders, and the users of its financial statements for compensating any realized damage or lost profit incurred as a result of errors committed by him while carrying out his duties, or as a result of his failure to accomplish his duties that are specified in accordance with the provisions of this Law, and the provisions of any other legislation in force, or duties demanded by internationally recognized accounting and auditing standards, or as a result of issuing financial statements that do not confirm with reality in a major manner or for approving these statements. The auditor shall also be held responsible for compensating the damage incurred by him on a shareholder or a bona fide third party as a result of the error committed. Should the Company have more than one auditor who participated in the error then they shall be held jointly liable in accordance with the provisions of this article.* ***Any civil liability suit arising from any of the aforesaid shall be dismissed upon the lapse of three years from the date of convening the Company General Assembly meeting where the auditor's report was read out. If the act attributed to the auditor constitutes a crime then the civil liability suit shall not prescribe unless the public right proceeding prescribes***."

Also, when reviewing case laws in this regard, I found that the Jordanian Cassation Court did not even gave the opportunity to hear such claims and their decisions were only based on the liquidation certificate which were issued by the Companies Control Department at the Ministry of Industry and Trade, as an example, Judgment No. (3059) of 2004 - Court of Cassation (Civil Department), Headed by Judge Mesbah Diab issued on the 24th of January 2004 states:

"*According to article (255/3) of the Companies Law, it is considered null and void any seizure of the company's funds and assets and any other conduct or execution carried out on such funds and assets after the liquidation of the company*."

Also, another judgement was issued by the Jordanian Cassation Court which is the highest supreme judicial authority in the Hashemite Kingdom of Jordan under No. (3931) of 2004 -

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Court of Cassation (Civil Department), Headed by Abdel Fattah Awamla issued on the 25th of May 2004 which stated:

"*Article (255/a/2) of the Companies Law mentioned that the procedures for the execution of the company's assets shall be null if they take place after the issuance of the company liquidation certificate. And that the text was absolutely inclusive of all the ongoing implementation procedures on the company's funds. The suspension of the trial after the liquidation decision is in accordance with the provisions of the above-mentioned Article*."

Therefore, these cases are subject to the provisions of the Jordanian Civil Code, which distinguishes whether the act causing the injury is a civil infringement so that the case cannot be heard after three years from the knowledge of the injured party and the person responsible for it.

In summary, the failure to address the lawsuit against the shareholders for the debts arising from the work of the company after the dissolution and liquidation is considered a legislative deficiency, the Jordanian legislator failed to remedy despite the exposure of the Jordanian Companies Law No. 22 of 1997 to many amendments and additions to legal and reflected in the amendments like Amended Interim Law No. 4 of 2002, Amended Interim Law No. 40 of 2002, Amended Interim Law No. 74 of 2002, Amended Interim Law No. 74 of 2003 and Amended Law No. 57 of 2006, as this type of lawsuits must be remedied for its importance.

5 Conclusion and Recommendations

Limited Liability Companies embody the desired type of companies which is preferred by small and medium-sized entrepreneurs. It has emerged to cope with the commercial, economic and industrial development of capital systems to meet the needs of businessmen and it has become necessary to find legal ways to limit the use of this type of companies to carry out fraudulent acts, especially as the responsibility of the shareholders is limited only by their contribution in the company's capital. It is also necessary to seek alternative means to avoid these ends which do not comply with the provisions of the legislation and the provisions of justice, which do not also remain sufficient guarantees for creditors of this type of companies.

After reviewing the provisions of the law concerning the liability of the shareholders in this type of companies, I found that there is a legislative deficiency in this matter, in addition to the lack of legal references to this type of responsibility. However, having read the Companies Law in respect of Limited Liability Companies and its liquidation procedures to write this research, I have come up with some proposals and recommendations, which may contribute to develop such type of commercial companies and I do hereby state them as follows:

1- The Jordanian legislator did not address the claims of recourse to the shareholders for the debts arising on the company after its dissolution and liquidation, which makes such cases not heard when denial, unless fifteen years or ten years has passed from the date of the fulfilment of the debt depending on whether such debt is a civil or commercial. AS such, I hope that the Jordanian legislator will provide and set a period to include the rights of creditors in relation to the commercial companies in order to set the stability of commercial transactions.

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2- To amend the text of Article (264/b) of the Companies Law by establishing a more secure mechanism with regard to the publication of the liquidation declaration by the liquidator since it is not possible to adopt the creditors' review of the local newspapers and especially non-resident creditors in the Hashemite Kingdom of Jordan. The creation of such mechanism will raise the level of confidence in this type of companies.
3- Amendment Article (2) of the Capital Determination Regulation for Limited Liability Companies of 2011 in respect of the capital of the Limited Liability Company in its Memorandum of Association and its Articles of Association in Jordanian Dinars by raising the minimum amount from one JD to at least as appropriate to the company's objectives in order to form an adequate guarantee for third parties whose dealing with this type of companies whether they were creditors or investors.
4- To provide a clearer legal framework for the liquidation proceedings through the issuance of the relevant regulation based on the provisions of article (252/b) of the Companies Law, which stated:
"*Liquidation procedures, their regulation, and implementation, and the reports that shall be submitted to the liquidator will be specified in accordance with a special regulation issued for this purpose*."
5- To state that the deposited capital of the company in the company's account may not be withdrawn from the bank, as it is the sole guarantee for the company's creditors.
6- To state that the entire capital of the company shall be deposited in the company's bank account after the decision of the General Assembly to liquidate the company and before the commencement of the liquidation proceedings.
7- Provide a mechanism for controlling the activities of the liquidator by requiring him to submit periodic reports on the claims submitted to him in addition to preparing statements showing the creditors of the company and the value of each debt.
8- To amend paragraph (a) of Article (257) of the Companies Law by extending the period of the founder of a Public Shareholding Company, or chairman or a member of its Board of Directors, or any manager or employee's liability even after the liquidation and not only in the period in which the company is under liquidation.
9- To amend paragraph (b) of Article (257) of the Companies Law by extending the period of liability even after the liquidation and not only in the period in which the company is under liquidation.

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