

Abstract

Criminal protection for the characteristic of the victim

(a comparative study)

The subject of the study dealt with: the criminal protection of the characteristics of the victim, which is one of the topics of great importance at the level of studies in the field of criminal law, by identifying the criminal protection provided by the criminal legislator for the character of the victim as a reason for criminalization and punishment on the one hand, and a reason for tightening criminal responsibility On the other hand, punishment. The victim is one of the most important parties in the criminal case, on the other hand.

The study focused on the criminal protection provided by the criminal legislator to the personal or subjective qualities of the victim, these qualities that are characterized by being united with the human being and this is what distinguishes it from other other qualities such as social qualities, and the study focused on showing the amount of criminal protection for the femininity for reasons related to being a creature Weak requires the criminal law to provide him with the necessary protection.

The study showed the position of criminal legislation on the issue of criminal protection for the capacity of the employee and the person charged with a public service and the purpose of those legislations behind achieving protection for the public job alike, whether the capacity of the employee and the person charged with a public service is one of the basic elements on which the crime is based, or that this attribute is an aggravating circumstance. for the punishment provided for the crime committed. The study is also interested in examining the procedural role of the complaint as a right for those who have the status of the victim. In some crimes, the right of the aggressor is related to family relations, so the victim is the best person to decide the importance of the assault and the extent of his worthiness to take penal measures in his regard. In some other crimes, family ties are established between the offender and the victim, so the legislator fears that the

damages of these procedures to these ties and to society accordingly outweigh the benefit that he can achieve. It is better to initiate criminal proceedings, or it is better for the matter to remain private, so that these procedures do not reveal the crime.

The study relied on the comparative analytical approach for the purpose of explaining the aspects of this protection provided by Iraqi legislation for the characteristics of the victim, whether those contained in the Penal Code, which represent the substantive aspect, or those contained in the Code of Criminal Procedure, which represent the procedural aspect, and the comparison was made with the legislation of each of France Egypt and the United Arab Emirates, how much did they show the practical side of those criminal texts according to the position of the Iraqi and comparative criminal justice.

The study relied on a plan of three chapters preceded by an introductory study to define the victim and indicate his legal status. The first chapter was for criminal protection for the personal qualities of the victim, and the second chapter was devoted to criminal protection for the functional and social qualities of the victim, while the third chapter was for procedural protection for the characteristics of the victim.

This study concluded with a conclusion that included the most important findings and recommendations of the research, and among those recommendations made therein, we suggested to the legislator to expand the scope of the restriction of Article 3 / A - of the Iraqi Code of Criminal Procedure in terms of persons so that it includes - as well as the assets Branches and husbands - brothers, sisters, uncles, aunts, uncles and aunts, in order to maintain family ties and to cover up scandal, and this is similar to some comparative legislation that was taken in this matter.

We suggested excluding the crime of adultery (the fornication of the husband - the fornication of the wife) from the scope of the crimes whose movement depends on the complaint of the victim, as the legislator dealt with its provisions in Chapter Four (Crimes Affecting the Family) of Chapter Eight (Social Crimes) of the Iraqi Penal Code, and we suggested addressing its provisions Among the ninth part of the aforementioned law (crimes against morals and public morals), as did

some comparative legislation, as it relates to one of the rights of society, and it is not permissible to protest in this regard that covering them up is in order to preserve the family entity and cover its reputation, because that is an attack on the rights of society. And in line with the orientation of the Iraqi constitution, which forbids the enactment of a law that contradicts the principles of Islam.

We suggested to the Iraqi legislator abolishing the legal excuse for a mother who kills her newborn child who was conceived by someone other than her husband to avoid shame, because the matter deserves to be emphasized, not mitigated, because the mother committed two crimes at the same time, the act of adultery that constitutes an act contrary to morals and public morals or the crime of adultery, as the case may be. And the act of murder, which calls us to criticize the conduct of other legislation in this regard. We also called on the Iraqi legislator to surround the childhood character of the victim in some crimes against morals and public morals, such as the crime of an indecent act that violates modesty, with adequate protection by explicitly stipulating this attribute in the provisions related to this crime, whether after this attribute is an essential element of the crime or an aggravating circumstance for its punishment. As well as other proposals submitted to the Iraqi legislator within the framework of the subject of this study.