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**"Criminal responsibility for media crimes"
Study in Iraqi law**

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Abstract:

Media crimes are considered serious crimes due to the development of media outlets and their diversity between written, audio, visual and electronic, and this means that what is published, broadcast, broadcast or recorded reaches a large segment of society members with the possibility of profoundly influencing public opinion on a specific topic, and the media is a double-edged sword on the one hand, it is a means of spreading culture and science, conveying news and communication, and on the other hand, its impact may be negative if it is used as a tool for incitement or violence, or to transmit false news, mislead public opinion, insult individuals, public bodies and institutions, or violate privacy, and this type of crime may cause problems in Determining the true perpetrator of the media crime with the increase in the number of interlocutors in the media field, including writers, authors, publishing houses, printers, technical and executive directors, and others who have a relationship with the topic of media in general, so this study came to shed light on the concept of media crimes in Iraqi law and the criminal responsibility for these crimes and their scope, persons and images with determining the position of the Iraqi legislator towards this responsibility.

I. Introduction

Freedom of opinion and expression is considered one of the basic freedoms in democratic societies, and it must be noted that the Constitution of the Republic of Iraq of 2005 guarantees freedom of expression by all means and accordingly guarantees freedom of expression, such as the press, printing, advertising, media and publishing, but the legislator has not issued a law regulating these Freedom and explaining the prohibitions and restrictions on publishing in a way that does not violate or detract from this right, and the legislation in force now, including

the Publications Law No. 206 of 1968, the instructions issued pursuant to it, and the penal texts contained in the Penal Code No. (111) of 1969, as amended, are no longer compatible with modern developments. In the field of the media and its means, as it neglected to specify the responsibility of some persons within the responsibility of media crimes, especially electronic media crimes.

Research Problem:

The research problem is represented by the absence of a legislative framework that defines the public or private natural or moral responsibility of some people, whether they are contributors or participants in the media process, as well as determining the basis of responsibility for these crimes precisely, with difficulties in determining the true perpetrator of these crimes due to the nature of the media work that takes some regulations Such as a system of confidentiality of the source of news or information or the name of the owner of the news or information, and this system is based on the International Charter of Honor for Journalists of 1952 and the non-nominal system in editing articles and news in radio and satellite channels, which allows concealing the name of the author, his person, the publisher or the media and replacing it with pseudonyms. It is in itself an obstacle to the law to determine criminal responsibility for media crimes.

Research objectives: (Research aims)

The research aims to shed light on the concept of media crimes, their characteristics, pillars, pictures of their commission, the type of criminal responsibility resulting from them and their basis, with an indication of the Iraqi legislator's position towards these crimes and the criminal confrontation with them, as well as the weaknesses and legislative deficiencies in the relevant legislation in force.

II. Research methodology:

The deductive, analytical, and comparative approach was adopted, whether related to legal texts or judicial applications in Iraq.

Research plane:

The research was divided into two topics, the first of which we devoted to discussing the concept of media crimes, their characteristics and pillars, and divided it into three demands, the first for defining media crimes, the second for explaining the characteristics of media crimes, and the third for the pillars of media crime, while the second topic was devoted to addressing criminal responsibility for media crimes, their basis and images We divided it into three demands, the first is to define criminal responsibility in media crimes, its scope, and the position of the Iraqi legislator, and the second is to study the basis of criminal responsibility and the position of the Iraqi legislator towards it, while the

third we reviewed it and ended the research with an in-depth conclusion that included the most important conclusions and recommendations.

The first topic

The concept of media crimes, their characteristics and pillars

Media crimes are generally considered serious crimes because they are committed by one of the media that reaches the recipient directly and publicly, and determining the pillars of this crime is characterized by sensitivity due to the overlap between freedom of opinion, expression or criticism, and between actions that constitute one of the forms of media crimes. Determining its characteristics or its components precisely so that the acts permissible according to the law and the constitution do not enter the circle of criminalizing punitive texts and constitute a violation or diminution of freedom of opinion and expression, and we will address in this study the definition of media crimes and their characteristics and pillars in the following demands:

The first requirement

Defining media crimes:

Before we know media crimes, we must understand the concept of the media, its types and means, for the media is the process in which news, facts, opinions and ideas are disseminated among people by the various means available in order to persuade, spread awareness and obtain support, and it is also known as the process of transmitting information and news of importance and interest. A target group for various political, economic, social, news, entertainment, awareness and other purposes, and it is required that the transmission of news be reliable and approved, and it may be an official or unofficial, public or private source, and the media can be classified into three main categories, the first is the printed media in which it is used Ink, paper and printer to display them, such as newspapers, newspapers and magazines, and the second type is non-print media, which are divided into audiovisual media according to the media that they display, such as television and radio. The third type is the Internet, which includes websites and distinguished news items (such as blogs), which is currently known as journalism or electronic media. Which is one of the new media and the most important means of media influence. It is noted that the Constitution of the Republic of Iraq of 2005 has guaranteed freedom of expression of opinion by all means and guaranteed freedom of the press, printing, advertisement, media and publishing, provided that exercising this freedom does not result in a breach of public order and morals, yet the Iraqi legislator has not enacted a law regulating freedom of expression until now in accordance with the right. The orders of the Coalition Provisional Authority prior to the issuance of the 2005 constitution have remained in effect

until the present time according to Article (130) of the constitution, as these orders included a restriction of this freedom, so Order No. (14)

For the year 2003 he carried the title (Banned Media Activity) Restrictions on publishing materials that incite violence or disturb the civil order or call for the change of Iraqi borders by means of violence or call for the return of the Baath Party to power, and this was followed by the issuance of Order No. (65) for the year 2004 bearing the title (The Iraqi Communications Commission), which included the text to promote and protect freedom of advertising, freedom of the press, and the absence of the need to obtain a license in order to work in Iraq. Although the constitution guarantees freedom of the media in all its means, this does not mean that it is absolute from every restriction, as there must be a balance between this freedom and other freedoms and the establishment of boundaries between permissible and criminal acts, as the freedom of the media is restricted by not exceeding the limits set by the law, as most of the legislations are criminalized, including The Iraqi Penal Code: Publication if it includes prejudice to the public interest or the private interest of individuals and considers them to be crimes that deserve criminal responsibility. These prohibitions include non-prejudice to internal security or external national security, and without prejudice to religious feeling or prejudice to the honor and esteem of individuals. In Iraq, we note that the Iraqi legislator did not know the crimes of publishing and the media or journalistic crimes. Rather, it stipulated responsibility for these crimes in the amended Penal Code No. 111 of 1969, as well as a provision for publicity in Article 19/3 thereof, as well as the criminal texts. Concerning the criminalization of acts of publication and media in violation of the law, they are scattered throughout the chapters of the penal code, including those related to the public interest. Iraqi jurisprudence defines publishing and media crimes as committing unlawful and unlawful acts by using the media, which a large number of individuals can view, and these crimes are transnational crimes that do not know borders and leave no trace after their commission. While another aspect of jurisprudence defined it as mental crimes represented in announcing an idea or opinion with bad intent punishable by law, while another aspect of jurisprudence went that media crimes are common law crimes represented :

1- Attacking commercial goods or companies would reduce their financial returns in addition to the moral damages represented by the damage to the reputation of these companies and their products.

2- The means of committing the crime cannot be considered one of the characteristics that distinguish this crime because crimes usually must be carried out by some means, except that some means can be considered aggravating circumstances for the crime in accordance with the law, and therefore committing media crimes in public is natural because the media is one of the means of advertising. Therefore, the method used is not considered one of the essential elements of the crime, but it may be considered an aggravating or mitigating circumstance, depending on the circumstances. For example, the commission of a journalistic media crime by publishing by an experienced journalist or journalist

who understands the principles of practicing the profession can be considered an aggravating circumstance because it is Knowledge and awareness of publishing principles and controls and the limits of expression of opinion or criticism.

3- The media crimes, like other crimes, may be temporary, their execution ends with the completion of the material work of publishing in any readable, visual or audible means, as the crimes of defamation, insult, insult or threat do not change their nature by changing the means or because the effects of publishing for a long time may influence opinion The public or the reputation and the psyche of the victim and his family, as temporary crimes consist of their criminal behavior that constitutes the material corner of the crime of action that takes place and ends with the occurrence of the crime in a short and limited time. Form multiple batches and with multiple actions, such as publishing a series of consecutive articles that include insulting, defamation, and insulting to a specific person or organization for one purpose, i.e. the unit of the criminal enterprise and the unit of the moral element to achieve one successive crime. Media crimes may be continuous if they occur through electronic means because the crime will continue if the information remains Published on the Internet.

Second: The second trend:

Supporters of this trend believe that media crimes are not different in nature from other common law crimes. Crimes committed through written, visual or audio media that include insulting, defamation, threatening or insulting, are of one nature regardless of the means of committing it and all its features It is the corner of publicity, and we support it this trend, founding our support on the fact that Penal Code No. (111) of 1969 amended did not distinguish media crimes from other crimes, for example that the crime of defamation stipulated in Article (433) of the Penal Code is realized whenever its elements are available. Regardless of the method of its commission, the legislator considered defamation by way of publishing in newspapers or printed matters or by any other means of media an aggravating circumstance, and the same is the case with the crime of insulting and stipulated in Article (434) penalties, however, we find that the Iraqi legislator has intervened to determine criminal responsibility for crimes Publication in articles (81,82,83,84) of the Penal Code No. (111) of 1969 as amended, and we will address this when we talk about criminal liability in media crimes.

The third requirement

Legal model for media crime

The legal model for crime is one of the results of the penal legitimacy rule, which stipulates that there is neither crime nor punishment except on the basis of a provision in the law, that is, what is known as the principle of legality of crimes and penalties, so when the legislator deals with a crime, he must draw up in each of its criminal texts, the required conditions In the act to be within the scope of the text and derive the illegitimate character from it, and the previous, contemporary or subsequent circumstances related to it until it is considered a crime, and thus

the act or abstention is not called a description of a crime unless it matches its descriptions and elements of the abstract legal model, in the words Other, in order to achieve the requirement of penal legitimacy, the legislator must specify in each text a model for what the crime is, and at the same time it requires matching the act committed to this model in order to become subject to that text and thus derive from it the criminal character, meaning that it gives the character other than The lawfulness of the act as a result of its submission to a punitive text that incriminates it in the absence of the reasons for permissibility, and in implementation of this, the acts of publishing and media, if they are carried out in accordance with professional standards of journalistic work, and the accuracy and credibility of the transmission of news have not exceeded the limits set for freedom of expression and criticism are considered permissible acts and are not subject to criminalization unless they are included within the scope of another incriminating text specified by the criminal legislator. We have previously shown that media crimes are crimes that are realized whenever their elements are available, just like any other criminal act, regardless of the means, nature and motives of its perpetration. The crime as a legal idea is based on the material and the moral element, and we will try to briefly address the pillars of media crime according to the following:

First: the private pillar

All crimes share common elements, but each individual crime has its own corner or pillars that distinguish it from other crimes, and these elements are required to be prior and contemporaneous with the offender's activity, being a necessary element for the legal existence of the crime, so their presence is necessary for the crime to carry out according to the model The law stipulated, but if these elements were left behind, the crime in turn, even if it falls under another legal description. The crime in question is considered one of the crimes that requires the existence of such an element of publicity, and in other words, publicity here represents an assumed or special corner of the crime, because with its availability the crime in question is realized and by its failure the crime will disappear and if the act falls under another punitive text, then publicity is considered In the act is a necessary and a necessary element for the existence and establishment of the crime in accordance with the legal model of the criminal incident stipulated in the law.

Second: The material element:

It is the external physical behavior that the law provides for its criminalization and it has a material nature that the senses touch and is necessary for any crime and is also known as the material of the crime. Article (28) of the Penal Code No. (111) for the year 1969 amended defined the material element as (behavior Criminal by committing an act that is an offense by law or refraining from doing an act ordered by law) and the material element consists of three elements: Criminal behavior And the harmful consequence and the causal relationship, and thus the act constituting the material element of the crime may occur in the form of a positive or negative action by refraining from a positive action imposed by law in certain circumstances, and if the act occurs, it does not matter after that the

means on which the perpetrator relied. The material element in media crimes is the overt, material criminal behavior. Publicity is the essence of material activity in publishing and media crimes, and publicity is the antithesis of secrecy and means publicizing, disseminating, showing and informing people about something, and it is taken from (publicly). Media crimes are all verbal or actual behavior by gesturing or gesturing or by publishing in newspapers, magazines, periodicals, or on electronic sites, by way of blogging or publishing news or pictures in a way that achieves publicity in spreading and being informed by the public on a large scale, and falls under penalty of criminalization such as publishing articles that incite sedition, violence or Publishing pictures and clips that contain insulting to the honor and reputation of some people or insulting public bodies in published, audio or visual news ... etc., and the publicity is achieved by one of the means stipulated in Article (19/3) of the Penal Code No. (111) for the year 1969 as amended. With actions, signs, or movements that take place on a public road, in a public forum, or a public place that is permissible, bounded, or exposed to the eyes of people (display screens in public streets), for example a And by saying, shouting, or loudly in a forum by means of a loudspeaker or through the press and other publications and other means of advertising, publishing, writings, drawings, pictures, badges, films, etc., and it is worth noting that the Iraqi judiciary has counted social networking pages (such as Facebook) and (Twitter) and other media outlets and considered what was published in it an aggravating circumstance to achieve the element of publicity, as the Federal Court of Appeal of Rusafa ruled (in its discriminatory capacity) the following: (The publication of slanderous phrases through the media is an aggravating circumstance according to the provision of Article (443) penalties and publishing via communication sites Social media (Facebook) is one of the media because it is available to everyone and reaches everyone The element of publicity in accordance with Article (19/3) provides penalties and thus the punishment is not appropriate for the act and it was necessary to tighten it and impose it to the extent that achieves the element of reform and general deterrence. Therefore, he decided to revoke the sentence of the punishment).

While the Iraqi judiciary did not prepare e-mail correspondence and the expressions contained in it of publishing and media crimes, because e-mail is not prepared by the media, as it was stated in the Federal Court of Cassation decision issued in 2013 (... that the electronic message subject of the complaint is attributed It is sent from the electronic address of the complaining party, so what is included in this message is not considered a publishing crime that belongs to the court to which the case is referred, since the private electronic postal addresses are not considered as the media that can be viewed), and finally it is necessary to refer to The necessity of achieving the causal relationship between the material act of the crime of publishing and the media and the harmful result, i.e. the material and legal effect that results from this behavior for which the legislator decides the penalty, i.e. achieving the close relationship between the criminal behavior and the criminal outcome. The availability of the causal relationship is not limited to the criminal lawsuits, but extends to the civil lawsuits, as the court in charge of media cases went to dismiss the lawsuit filed by the plaintiff due to the lack of the

causal relationship between the error and the damage as it was stated in its decision issued in 2011 (... that the name of the plaintiff was mentioned by the families of the victim. During this meeting, the responsibility of this channel is not required as long as the channel or by using it exceeds its right to freedom of the media or breaching the general rules of negligence based on error and damage and the causal relationship between the error and the harm that resulted from it. The pillar of the error represented by the defamation, defamation, or slander against the plaintiff and his reputation, and that the channel did not offend him by this meeting with the family of the victim .. Therefore, what came in the report of the judicial expert linked in the case is justified and a reason, and it is valid to have with the evidence of the other case a reason for the judgment).

Third: The moral element:

It is achieved by having the criminal capacity for the perpetrator (perception and will) and the criminal sin represented by the perpetrator's will to carry out the criminal behavior intentionally or wrongly. The Iraqi legislator defined the criminal intent in Article (33/1) of the Penal Code as directing the perpetrator of his will to commit the act constituting the crime With the aim of the result of the crime that occurred or any other result of a crime, the crime is considered intentional if the criminal intent is provided by the perpetrator and it is also considered intentional in the cases specified by the legislator in Article (34) of the Penal Code. Publication and media crimes are considered intentional crimes as their moral element is based on The availability of criminal intent, and it is not possible to imagine a crime published in newspapers or the media, and it is described as unintentional, and this requires the availability of the two elements of knowledge and will, that is, his will to work the material component of the media crime and the will of the criminal result or any other result, and the absence of intent results in the absence of the crime and this is what the Court of Appeal decided Baghdad, Federal Rusafa in its discriminatory capacity, according to its decision issued in 2015, in which it was stated (... and the radio site run by the accused had demonstrated good faith when he announced the name of the one who appeared These statements or statements and the moral element of the act attributed to him is neglected because there is no intent to offend the complainant because the media, according to what the specialists in media science indicated as news or the transmission of information by means that carry these facts to the people and that the mission of the media is to influence public opinion through Transferring information, and this is considered the most important means of freedom of expression guaranteed by the constitution and the law. Thus, the accused did not commit an act incriminating the law, but rather an act he practiced in accordance with the right granted to him by law)

Likewise, with regard to tort liability, the practice of media work within the duties and principles of the profession leads to the absence of the error requiring liability, as the court in charge of publishing and media issues went in a decision issued in 2011 to (... so the defendant would have no mistake because he broadcast the news on his channel and indicated When it was published, it was

published in the Al-Alam newspaper, and this falls under the professional duty of freedom of journalistic media work and does not fall within the professional error ...).

The second topic

Criminal responsibility for media crimes, their basis and images determining criminal liability in media crimes is beset with many difficulties stemming from the number of participants in the media work and the multiplicity of advertising media, and this requires the concentration or withdrawal of criminal responsibility on the people who own or dominate these media, in addition to those working in them who have direct contact with the media work, and this may constitute an exception or In contravention of the general rule in the criminal law known as the personality of the punishment, which means that the punishment is imposed only on those whose conduct possesses the elements of the crime, and we will try to deal with criminal responsibility in media crimes, their limits, their basis and the most common forms of the following demands:

The first requirement

Definition of criminal responsibility for media crimes and its scope

First: Definition of Criminal Responsibility: Criminal legislation, including the Iraqi Penal Code, did not know criminal responsibility, leaving that to the jurisprudence and contented itself with referring to the barriers to criminal responsibility based on loss of awareness and will. And it is also known as (the obligation to bear the legal effects resulting from the availability of the elements of the crime and the location of this criminal obligation to impose a penalty or a precautionary measure set by the penal legislator in the event of a person's responsibility) Likewise, it was known (charging a person as a result of his actions and holding him accountable for them because they come from him from an awareness of their meaning, consequences and his desire for them), and also known as (the capacity of a rational, conscious person to bear the punitive punishment as a result of committing a crime stipulated in the Penal Code)

I also know that it is (the person's authority to bear the criminal sanction in the form of the punishment or the precautionary measure that he decides as an effect of the crime), and from the foregoing, the penal liability is the capacity or authority of a person to bear the penalties decided by the legislator as an effect of the actions issued by him from full awareness and free will, which constitute a crime under Punitive text.

Second:

The scope of criminal responsibility in media crimes: The principle is that the punishment is personal and that the person is responsible for the actions he commits, and he personally bears the effect of them. The subordinate for the

actions of the subordinate or the responsibility for those under his guardianship and guardianship, as well as the responsibility of the person for the things and animals under his guard. Responsibility in legislation was divided between civil and penal, and a part of jurisprudence believes that what was said in positive jurisprudence in the form of responsibility for the actions of others is a fatal mistake and the right thing in That (presumed responsibility) as it is difficult to prove in some cases, so evidence is transferred from the plaintiff to the defendant, as is the case in Article (81) of the Penal Code No. (111) of 1969, which considered the newspaper's editor-in-chief as an original perpetrator of the crime committed in his newspaper, and with This is exempt from punishment if it is proven during the investigation that the publication took place without his work and provided all his information or papers to help him know the actual publisher, and we may record the conduct of the Iraqi criminal legislator in the field of Responsibility for media crimes:

1- He was not satisfied with determining the responsibility of the author of the book or the author of the drawing, to other means of expression, but rather the editor-in-chief of the newspaper considered the perpetrator of the crime that was committed by his newspaper, and if there was no (editor) then the (editor) responsible for the section in which the publication took place.

2- He decided the responsibility of the importer of books, drawings, or other means of expression for the opinion that was used in the commission of the crime and the party that undertook (printing and importing) and counted them as original actors, and if they could not be known, both (seller, distributor and poster) are responsible unless proven otherwise.

3- The legislator decided in the Publications Law No. 206 of 1968 the criminal liability of everyone who violates the provisions of this law, and also decided the criminal and civil liability for each of (the owner of the periodic publication, its editor-in-chief, the author of the article) and the same is the case for (the author of the non-periodic publication) , Its translator, its publisher) as they can be considered responsible for the crimes in question in this law and are bound by solidarity to pay the compensation that is decided by the court. And an insult to the plaintiff, as it was stated in its decision issued in 2010: (... the competent judicial expert presented his report dated 9/10/2010, which was justified and justified regarding the professional responsibility against the defendant for the incident of publishing the subject of the lawsuit and that what was published of the defendant's article constitutes an incident Defamation, abuse, and professional error that resulted in moral and moral damage, and the report was valid from the evidence of the other case as a reason for judgment ... and upon the request the court decided to oblige the defendant to pay the plaintiff an amount of two million dinars ...).

The second requirement

The basis of criminal responsibility in media crimes

There have been many jurisprudential trends regarding determining the basis of criminal liability in media crimes, and we will try to refer to it briefly as follows:

First: Assumed responsibility:

The idea of this responsibility is based on the fact that the editor-in-chief or the editor is responsible for the crime as its original perpetrator, since this crime does not occur except by publication issued with its consent, where the criminal behavior of the publication investigates the pillars of the crime, each of which makes an original contribution. presumption

Legal with their knowledge of the contents of what was published in the newspaper, so their responsibility is assumed as a result of the assumption of knowledge, and it is an objective and material responsibility that does not require the availability of the criminal intent (the moral element), and therefore the accused cannot get rid of responsibility if he claims that he did not see the news or the published article or was absent at the time of publication Because the legislator is supposed to know and know in advance the content of what is published by virtue of the authority of supervision and approval or permission to publish.

Second: Responsibility based on the idea of the moral actor:

The proponents of this trend see that whoever commits the criminal act is the material perpetrator of the crime, and whoever bears responsibility for it is the moral actor, and the moral actor is the one who pushes by any means personally to carry out the act that constitutes the crime if this person is not responsible In fact, this type of responsibility cannot be relied upon as a basis for determining criminal responsibility for media crimes, because those in charge of editing, publishing and broadcasting news are supposed to know the origins of the journalistic and media work, its provisions, and its professional controls, and they are eligible for criminal responsibility.

Third: Responsibility in sequence:

This responsibility is based on the determination of the persons who are responsible for the journalistic crime sequentially by the legislator so that the person is not asked unless there is no one who was presented by the law in the arrangement. If the author does not know, he asks the president or the editor in charge and if there is no The latter asks the publisher, and if he does not know, he asks the stamp, and thus the liability is determined according to the descending order set by the legislator, and this type of responsibility is considered an exceptional system in penal liability based on the exclusion of the rules of participation and the restriction of the persons whom the legislator considers responsible according to the order he sees.

Fourth: Responsibility on the basis of negligence:

This type of responsibility is based on the idea of negligence and breach of a professional duty that requires workers in the media field to familiarize themselves with the principles and controls of professional work and act accordingly. That its elements are available upon the availability of professional negligence and error, but if the media content contains indications of slander or offense, then the publisher or printer is not asked unless he has the criminal intent.

Fifth: Joint liability:

This responsibility is based on punishing the editor-in-chief of the newspaper or the publication if he publishes an article, drawing or comment involving a crime in solidarity with the author of the article on the basis of the assumption that he knows what has been published. The author is responsible for the editor-in-chief in which the article or the author was published would make publishing and media crimes unpunished. The author may be foreign or difficult to reach after publication or broadcast, or the author or author of the article may have used a fictitious name that prevents him from reaching him personally, This type of responsibility also helps to strengthen the process of serious supervision and monitoring of everything published in its journalistic or media content and not to rely on others to supervise these actions. However, we find that the Iraqi criminal legislator to avoid cases of committing crimes by an Iraqi or a foreigner left Iraq, as the text In Article (6) of the Penal Law No. (111) of 1969 amending b (The provisions of this law shall apply to all crimes committed in Iraq) and in the second sentence of this article (and in all cases the A law on everyone who participated in a crime that occurred in whole or in part in Iraq, even if his contribution was abroad, whether he was an actor or a partner). It was broadcast by one of the media inside Iraq and involved acts criminalized by the law, in addition to the responsibility of the editor or editor in his capacity as the original perpetrator of the crime according to Article (81) of the aforementioned law.

Sixth: The position of the Iraqi legislator on the basis of criminal liability in media crimes:

In order for a person to ask about a crime, he must be assigned financially and morally, and this attribution is nothing more than an expression of willfulness and error in the mental behavior of the offender, as it is a moral step in the way of determining criminal responsibility and the ability of the offender to distinguish and choose and what this ability qualified him in terms of intentionally or wrongly As for the material attribution, it is achieved when the crime is the result of the perpetrator's act and the result is attributed to this act, and based on the methodology of the Iraqi legislator, which evaluates criminal responsibility on the basis of freedom of choice, the criminal responsibility is not excluded except by the absence of freedom of choice, which is based on racial (perception and will). That the person criminally ask about the actions of others, and we will try to clarify the position of the Iraqi legislator with regard to the following:

1- The Iraqi legislator has arranged criminal responsibility in a sequential manner in Articles (81) and (82) of the Penal Code (author, editor, editor, editor) as well as (importer, seller, distributor, poster), according to the foregoing, the responsibility of the editor does not exist in the presence of the editor. The reporter cannot be asked except when the editor is not present or he has started his job, but this does not prevent him from questioning him if it is proven that he participated in the crime according to the general rules. 2- The Iraqi legislator did not mention the owner of the publishing medium among the people responsible for publishing crimes, but this does not prevent him from being held criminally accountable, as he is the first opinion holder in developing the general plan for the publishing and media outlet and determining the media policy and the responsibility of the owner of the media outlet, whether it is a satellite channel, newspaper or magazine. Periodic or non-periodic based on the general rules of criminal responsibility, and the conduct and criminal intent or participation in that activity must be proven. On the other hand, on the other hand, we find that the legislature provided for the taking of penalties such as seizure and confiscation of seized items or Publication of the judgment or its summary in at least one or two newspapers at the expense of the convicted person, and the legislator has stipulated a number of penalties of an administrative nature, such as warning, suspending the periodic publication, canceling the license, suspending licenses, imposing financial fines, terminating or withdrawing the license, issuing warnings, Request to publish an apology, confiscate equipment.

3- The Iraqi legislator considered the responsibility of the seller, distributor, and poster a presumed responsibility, and they are asked criminally as they are the original perpetrators of the crime, but the legislator allowed them to prove that they are not aware of the content of the media content, and thus this responsibility is a presumed responsibility that can be proven otherwise.

4- The Iraqi legislator did not know in the Publications Law No. 206 of 1968, the Printing Press Law No. 189 of 1969, nor the Penal Code No. 111 of 1969 amending the concept of "stamp" and this legislative deficiency has caused confusion in assigning criminal responsibility in case There is a multiplicity of characteristic of those working in this field, there is (the owner of the printing press, and the printing press may have a moral personality such as a large printing house, and there is the artistic director ... etc.) and this requires determining the meaning of the stamp, and in all cases the responsibility of the printer and the importer is a presumed responsibility as the original perpetrators of the crime.

5- The legislature did not address the issue of private bodies such as companies, media and cultural institutions and parties owning publishing and media means such as satellite channels, newspapers and websites, as these institutions are organizations that have goals, visions and policies imposed on executive directors such as editors-in-chief or directors of media channels, and this requires the

legislator to define their responsibility accurately and not Especially since the Political Parties Law No. (36) of 2015 stipulated that the party be granted the moral personality and gave the party president the right to be represented before the judiciary and other bodies and allowed the party to issue a political newspaper and one or more political magazines and to establish a website and have all means of communication to express its opinions and principles. The right to use the media to express its point of view and explain its principles and programs, except The aforementioned law excluded the responsibility of the party leader or the political body for what is published in the party's newspaper or magazine and limited the responsibility to the editor-in-chief only, while it was more appropriate for the legislator to make the party president's responsibility in solidarity with the editor-in-chief or the director of the satellite channel for what is published or broadcast media content that constitutes a media crime Therefore, the responsibility of the editor-in-chief of the party's newspaper or magazine is a personal responsibility that does not apply to the party or its president, and this we see a legislative deficiency that needs legislative treatment, while we find that the Egyptian Political Parties Law No. (40) of 1977 amended specifically the amendment that was mentioned in Article (15) According to Law No. (36) of 1979, it contained a restriction on the activity of party newspapers, as this article made the party leader responsible with the editor-in-chief, meaning (the party newspaper) responsible jointly and presumably against the party leader at the same time for what material is published in it that constitutes a crime or More in the eyes of the law.

6- The Iraqi legislature did not address either at the level of the Penal Code No. (111) of 1969 as amended or the Publications Law No. (206) of 1968 as amended or at the level of the (dissolved) Coalition Provisional Authority Order No. (65) of 2004 the issue of criminal responsibility for press crimes. Modern or what is known as electronic press crimes in light of the disappearance of the terms seller, promoter, importer and character and the emergence of designations and terms with electronic connotations such as service provider, hosting provider, communication carrier, information carrier, information network, public and private networks, social media, smart mobile applications, in addition to many Of those involved in the field of electronic media crimes, such as the shelter provider, the access provider, the producer, the information supplier, the service provider and the author of the message, and this number of those who intervene in the electronic media may raise the problems of applying sequential responsibility against them.

The sequence of arrangement in the responsibility to determine the interfering whether he was a principal perpetrator or a partner according to the real role he plays in the commission of the crime.

The third requirement

Pictures of media crimes

The forms of media crimes vary according to the target of this crime, as they may occur on natural persons such as citizens and public officials or on public or private legal persons, as well as according to the motive to commit them, as the motive may be political, economic, social, cultural, or the motive of insulting or insulting, and we will try to point out the most important Pictures of these crimes as mentioned in Iraqi legislation:

First: Publication and media crimes affecting the external security of the state:

These include crimes of influencing Iraq's political relations with others with Arab and foreign countries, and the crime of assisting the enemy to enter the country, stirring up discord and weakening the morale of the armed forces or inciting their members to join the enemy and divulge defense secrets in the interest of a foreign country, or Disseminating, arming, or mobilizing the orders of the armed forces and police movements or any other national force.

Second: Publication and media crimes affecting the internal security of the state:

such as crimes of incitement to hatred and hatred or spreading division between members of the people, their nationalities and religious sects, and crimes of encroachment and stabbing the recognized religions in Iraq or attacking the belief of religious sects or insulting their rituals or deliberately printing and distorting a holy book for anyone Religious sects, crimes of spreading false news, malicious statements, and provocative propaganda that disturb public security, throw terror among people, or harm the public interest, and crimes of breach of the state's financial confidence, such as dropping the national currency and government loan bonds and its financial reputation at home and abroad.

Third: Publication and media crimes affecting the functioning of the judiciary:

such as influencing the conduct of the judiciary and justice, influencing judges, public prosecution, investigators, lawyers and witnesses, or influencing public opinion in a case pending before the judiciary, experts, arbitrators or other parties to the litigation, whether the litigation is related to a civil, criminal or Commercial

Fourth: Crimes affecting the interest of individuals:

such as the crime of violating the sanctity of private life, crimes of defamation and insult, and crimes against the literary rights of authors of innovative works in literature, arts and sciences, regardless of the type of these works or the method of their expression, their importance and the purpose of their classification.

Fifth: Crimes affecting public bodies:

such as a crime that has been insulted by the President of the Republic, whoever takes office, the National Assembly, the government, the ruler, the armed forces,

or other statutory bodies, public authorities, official or semi-official departments, or insults to foreign countries or international organizations or their president or Its representative in Iraq or insulting its flag or national emblem, publishing the secret sessions of the National Assembly, or publishing without security and bad intent an order that happened in the public sessions of this Assembly.

III. Conclusion

In conclusion, we discussed this issue of criminal responsibility in media crimes, and through in-depth objective research, we reached the following conclusions and recommendations: First: Results :

1- The Iraqi legislator did not know the crimes of publishing and the media or the press crimes and confined itself to defining the criminal responsibility, its scope, persons, pictures of crimes and their penalties, and the measures that could be imposed according to them, such as confiscation and publication.

2- Media crime is every word, act, hint, suggestion, or voice that is announced in one of the public or private media, written, visual, audio, or electronic or cancel it.

3- Media crimes are common law crimes, and they are achieved by investigating the elements of material and moral attribution of the crime regardless of the means of its commission. Nevertheless, problems may arise with regard to the eye of proof and determining the criminal responsibility to know who is responsible or the true perpetrator of the crime, the reason for the prevalence of the (liberation secret) system and (The system of non-nomenclature) in the field of media work, in particular journalistic work.

4- The criminal responsibility in media crimes is the person's authority to bear the criminal sanction in the form of punishment or precautionary measure as an effect of the crime he commits out of full awareness and free will. The principle is that a person asks about the crimes he commits. Nevertheless, he may ask about the actions of others in media crimes as an exception to the principle (Personality of punishment) in criminal law.

5- The Iraqi legislator has taken on the consecutive responsibility and the presumed responsibility capable of proving the opposite in determining the responsibility (editor, editor, typist, importer, seller, distributor, poster) as well as taking criminal responsibility according to the general rules in addition to civil liability for each of (the owner of the periodic publication, its editor-in-chief) , Author of the article).

6- The Iraqi legislator neglected to mention (the owner of the means of publication) among the persons responsible for the publishing crime and neglected to define his criminal responsibility, but this does not prevent him from being held

criminally responsible in accordance with the general rules of criminal responsibility.

7- The Iraqi legislator did not know in the Publications Law No. 206 of 1968 amending the concept of (printing house) or (printing houses for institutions), and this omission caused confusion in assigning criminal responsibility in the event of multiple workers in this field or those involved in it (such as the owner of the printing press, the owner Printing house, technical director, executive director ... etc).

8- The Political Parties Law No. (36) for the year 2015 permits the political party to issue a political newspaper and one or more political magazines, or to create a website and own the media, but the aforementioned law excluded the responsibility of the party leader from criminal responsibility and restricted personal liability to the editor-in-chief, by that we mean the editor of a newspaper Or the magazine or the party's website, and this contradicts the Iraqi criminal legislator's direction in determining responsibility for media crimes.

The Iraqi legislator did not specify criminal responsibility for the electoral crimes stipulated in Chapter Seven of the Iraqi Parliament Elections Law No. 45 of 2013 regarding the head of the party or political entity in the event of the announcement or disclosure of votes or statements by a media outlet. Second: Recommendations:

1- We call on the Iraqi legislator to define the concept of publishing and media crimes, especially as he defined (media) in Section (2 / terminology) Paragraph (6) of Order No. (65) for the year 2004 regarding the deployment of the Iraqi Communications and Media Commission.

2- Determining the criminal responsibility of some persons interfering in the media process (such as the printer) or the party that undertook printing and inserting it within the successive responsibility according to the Iraqi legislator's approach in the penal code.

3- Amending Paragraph (Second) of Article (22) of the Political Parties Law No. (36) of 2015 by specifying the responsibility of the party leader or his website, because the text in his current capacity excludes the party leader from responsibility.

4- The issuance of a modern law for publications instead of Law No. (206) for the year 1968 amended, which deals with crimes of modern media or the so-called electronic media, since the current law did not address criminal liability with the text of the persons involved in the electronic media such as the service provider, the hosting provider and the information carrier ... etc., The criminal liability of some groups should be specified in the penal code in light of technological progress, such as the electronic stamp and publisher, and the intellectual property rights in the websites, pages and electronic blogs.

5- The need to address penalties and administrative measures and unify them in one law, as administrative penalties were mentioned in the Publications Law

No. 206 of 1968 as amended and Order No. 65 of 2004 with the unification of the body responsible for imposing them.

6- Limiting the responsibility of the party leader or political entity in solidarity with the perpetrators of electoral crimes that are carried out with a media outlet with the intention of misleading voters or harming the integrity and transparency of the electoral process.

We call on the Iraqi Ministry of Culture, Tourism and Antiquities to reconsider the Instructions for Regulating the Censorship of Non-Periodical Publications No. (1) for the year 1969 and Instructions No. (2) for the year 1969 Concerning the Permits of Photographers and the Instructions for Licensing Correspondents of Foreign Media Institutions to Practice Their Business in Iraq issued 1/30/1969 To be compatible with developments in the field of modern electronic media and the directives of the 2005 constitution.

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