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CRIMINAL CONFRONTATION OF CRIMES OF WITCHCRAFT AND SORCERY IN THE UAE PENAL CODE

Ayman Nawwaf Sharif Alhawawsheh

College of Law American University in the Emirates

E-mail: aymannawaflaw@yahoo.com

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ABSTRACT

Whereas courts in the United Arab Emirates apply the provisions of Islamic law to the cases before them, in accordance with what the legislator stipulated that the application of Islamic Sharia provisions applies in the matter of "hudud" crimes, retribution and blood money, and determines the crimes and punishments of discretion in accordance with what is indicated by the book and the Sunnah and what the head of state issues Regulations that do not conflict with the Qur'an and Sunnah.

So the United Arab Emirates tended to make the Book of God and the Sunnah of His Prophet, may God bless him and grant him peace, a constitution for it, and it came to us to divide the crimes according to the severity of the punishment prescribed for them in Islamic Sharia, which is divided into three sections: "hudud" crimes, retribution, blood money and discretionary crimes.

The crimes of witchcraft and sorcery came in implementation of that and the UAE legislator stipulated in the amended law of 2016, specifically in Article 316, regarding these crimes and considered them to be crimes that affect religion and belief.

INTRODUCTION

codification controls the legal rulings by stating the preponderant opinion that should be judged and acted upon. Because the jurisprudential differences between the sects, which are within the scope of one school, are many and varied, even among the imam of the same sect. He in may have more than one say in a single issue, while his companions have opinions, and at the same time the applicants have a say and the latecomers have a say, and it is difficult

this age in which the dealings are complicated and the issues pending before the judiciary are numerous. In codification of the jurisprudential ruling that the judge must adjudicate. Legalization achieves the unity of court rulings and ensures that judicial rulings do not conflict or contradict them. Because the judge has only the right to apply uniform texts of legalization, which do not differ in different judges or courts.

in the absence of codification, the application of jurisprudence rulings is left to the jurisprudence of judges in different parts of the country, so the judiciary rulings in one country become inconsistent, and this causes confusion and turmoil, and wastes confidence in the courts, the judiciary and the judiciary. The lack of legalization causes the difference in the judicial ruling in the same case between the first instance judge, the appeals judge and the cassation judge in terms of applying the jurisprudential judgment to the same incident.

The motivation of the study

What is the definition of the crime of witchcraft and sorcery?

What are the elements of the crime of witchcraft and sorcery?

What is the difference between the crime of witchcraft and the crime of sorcery?

What is the position of legislation and judiciary on the crime of witchcraft and sorcery?

Definition of codification

Codification is a language:

The source of “legalization,” meaning “establishing laws,” which is a generative word (meaning that is not Arabic in origin), and the law: “the measure and method of everything (Hamdi ,2001)

Codification idiomatically:

Drafting rulings in the form of legal articles arranged numbered, similar to modern laws of civil, criminal and administrative ... etc .; This is to be an easy and specific reference, which judges can easily adhere to, lawyers refer to, and on the basis of which citizens deal (Al-Mahamid 2001). Another defined it as: “Drafting the provisions of transactions and other contracts and theories that are paved for them, collecting their framework, in the form of legal articles, easy to refer to (Al-Zuhaili,2014).Some researchers defined it as: the formulation of jurisprudential rulings with a single topic that did not leave their application to choose people, in peremptory terms that distinguish between them in serial numbers arranged in a logical order away from repetition and contradiction.(Ibn Hamid , 2017) .

The principle of the idea of bringing people together on one opinion in the judiciary, which is the summary of (the idea of rationing) came from Abdullah bin Al-Muqaffa (Ibn Khallkan,2014).

The famous writer, in his letter addressed to the Commander of the Faithful in his time.

Assuming that this is proven, it does not appear to me that this is contested by which the idea will be rejected, for wisdom is the believer's misguided, and if the validity of the opinion is proven, it is accepted.

The motive for writing the Journal of Legal Rulings was the following:

The expansion of commercial transactions and the increase in contacts with the outside world.

The presence of judges in regular courts and rights cassation boards without knowledge of jurisprudence

And its provisions, the codification of the provisions was easy for them to see (El-Baz,2019).

The importance of Codification in criminal law

What has emerged at this time from the expansion of courts, the increase in the number of judges, in addition to the large number and complexity of accidents, and the weakness of the scientific faculty of many students of science in the Sharia colleges that graduate judges in addition to the openness of our society to the rest of the global societies; There must be rationing.

Codification of the criminal law controls the legal rulings by stating the preponderant opinion that should be judged and acted upon. Because the jurisprudential differences between the sects, which are within the scope of one school, are many and varied, even among the imam of the same doctrine, so he may have more than one saying on the same issue, while his companions have sayings, and at the same time the advanced have a say and the later ones have a say, and it is difficult in this age. - The era of speed - in which the transactions were complicated and the cases before the court abounded; Therefore, it is necessary to codify the jurisprudential rulings that the judge must rule by.

Likewise, codifying the criminal law achieves the unity of judicial rulings, and ensures that judicial rulings do not conflict or contradict them. Because the judge has only the right to apply uniform texts of legalization, which do not differ in different judges or courts. As for the lack of legalization, the application of jurisprudence rulings is left to the jurisprudence of judges in different parts of the country, so the judiciary rulings in one country become inconsistent, and this causes confusion and turmoil, and wastes confidence in the courts, the judiciary and the judiciary rulings, and the lack of legalization causes the difference in the judicial ruling in a single case. Between the first instance judge, the appellate judge and the cassation judge in terms of the application of the jurisprudential judgment on one incident, and in contrast to Arab and foreign countries.

The impact of Islamic law in the UAE

when we Tracking legal texts in the United Arab Emirates, we find that they apply the provisions of the tolerant Islamic Sharia, for example Article (7) of the Constitution of the United Arab Emirates saying, "Islam is the official religion of the Union, and Islamic Sharia is a main source of legislation in it, and the official language of the Union is the Arabic language" (The Constitution of the United Arab Emirates, 1971).

We also find the influence of Islamic law in the text of Article 1 of the Federal Penal Code 10, In the matter of "hudud "crimes, retribution, and blood money, the provisions of Islamic Sharia, and discretionary crimes and punishments, are determined in accordance with the provisions of this law and other penal laws (the Penal Code, 1987). Likewise, Article (53) of the same law states, "There is no crime if the act is committed in good faith, using a right established according to the provisions of Islamic Sharia or the law, and within the scope of this right. Whoever committed the act is legally authorized to do so. And Article 315(is punishable with imprisonment and a fine or either of these two penalties whoever offends one of the sanctities or rituals established in other religions when these sanctities and rituals are safeguarded in accordance with the provisions of Islamic Sharia).We also find the effect of Islamic Sharia in (the Criminal Procedures Law the Code of Criminal Procedure,1992) , as it was stipulated in Article 1 that the provisions of this law shall be applied in the matter of procedures related to discretionary crimes, and they are also applied in the matter of procedures related to" hudud "crimes, retribution and blood money in matters that do not contradict the provisions of Islamic law. Likewise, Article 299 of the UAE Criminal Procedures Law states: "Except for the cases mentioned in the previous articles, implementation may not be postponed except by a decision of the Attorney General, and in cases that are required by the provisions of Islamic Sharia."So it appears from these texts and others that the United Arab Emirates has explicitly stated that its constitution is the Book of God and the Sunnah of His Messenger, may God bless him and grant him peace, and has adopted the provisions of Islamic Sharia.

Codification Sharia in UAE legislation

Whereas the courts in the United Arab Emirates apply the provisions of Islamic Sharia law to the cases before them in accordance with what the legislator stipulated that the application of Islamic Sharia provisions applies in the matter of hudud crimes, retribution and blood money, and the discretionary crimes and punishments are determined according to what is indicated by the book and the Sunnah and the regulations issued by the guardian It contradicts the book and the Sunnah, so the United Arab Emirates tended to make the Book of God and the Sunnah of His Prophet, may God bless him and grant him peace, a constitution for it, and it came to us to take the division of crimes according to the severity of the punishment prescribed for them in Islamic law, which is divided into three sections:

Section I (Odeh ,2008) “Hidood” crimes: Itis the crime punishable by the Had. The hand is the crime which punishment is really estimated by God. The crimes of the estimated Hidood of God are known and limited to seven crimes: (1) adultery. (2) Ejaculation. (3) Drinking Alcohol. (4) Theft. (5) Banditry. (6) Apostasy. (7) Prostitution. And scholars call them " Hidood" without adding word "crime" to it, and their sanctions are also called "Hidood" as well, but they are marked by the crime that was imposed on it, so it is said: Had of theft, had of drinking, and that means the penalty of theft and the penalty of drinking 13.

Section I.: Retribution and blood money crimes: the punishment of crimes and blood money, which is a punishment of individuals and not as stated in the ” Hadoop,” which are estimated by God, and this means that the victim has the right to forgive, if he wanted, if he did so, the penalty drops. And retribution and blood money crimes are five: (1) murder. (2) Semi-premeditated murder. (3) Killing by mistake. (4) Deliberate crime less than killing. (5) The crime below the killing by mistake. And the meaning of crime below the killing is: attack, which does not lead to death, such as beating or hurting.

Section III: discretionary crimes (Al Taser), the judge is free to choose punishment or penalties for each crime, in a way to suit the circumstances of the crime and the circumstances of the offender, the sanctions are not estimated. Discretionary crimes are not estimated, as is the case in

"Hudood "crimes or crimes of retribution and blood money, and they cannot restricted (Najm,2020).

Therefore, discretionary crimes are not limited, as is the case in "hudud "crimes or crimes of retribution and blood money, and it is not possible to limit them and we find their application in the Federal Penal Code.

And specifically the crime of witchcraft and sorcery that was criminalized by the UAE legislator in the last amendment to the Federal Penal Code in 2016.

The crime of witchcraft and sorcery in the UAE legislation

The case of killing a child maid using magic in the "Sharjah" region in the UAE raised public opinion. Despite the overwhelming evidence that proved the maid’s felony, the punishment that was applied to her was not a deterrent in a manner equivalent to the punishment for premeditated murder, as she was imprisoned for two years and was finally deported to her country. As the case was adapted based on the texts stipulating the punishment of the perpetrator and the harm of the victim from acts of witchcraft and fraud in work or money. The reason for this is that the text of the Federal Law issued in 1987 did not single out a penalty for practicing witchcraft and sorcery, but was included under the clause of fraud. The provisions of Islamic law obligate the implementation of "qisas" in the event that all the evidence for the killer is proven by witchcraft, until in the case of killing the child, the evidence may not prove that the maid committed the crime in a physical form through witchcraft. In the absence of the legal text that punishes the murderer with

witchcraft and sorcery in the previous law, we find that the UAE Penal Code covers all matters and issues, starting with cybercrime, drugs and murder, but with the development of time there have become urgent cases that need laws based on legislation and the introduction of strong deterrent penalties that cover Issues of magic and sorcery.

As there is no crime without a text, and relying on Sharia and jurisprudence in these matters is very difficult to apply the limit of establishing witchcraft and sorcery on the perpetrator. The community was disappointed with the punishment imposed on the maid, who reached two years' imprisonment and then deported, which prompted the legislator to pay attention to the importance of the law incriminating the murderer with witchcraft, especially since cases of witchcraft and sorcery are on a steady rise, with a number ranging between 3-4 cases per month.

This led the UAE legislator to amend the Federal Penal Code in 2016, whereby the UAE legislator criminalized the crime of witchcraft and sorcery.

As we know that witchcraft and sorcery are negative social phenomena that devastate many societies, and their greatest danger lies in the transformation of this phenomenon into a culture within society that accepts and is satisfied with it.

And that those who practice these actions follow the style of talismans, supplications, incense, and a lot of revelations that are practiced on the opposite side that they are spiritual acts and contact with metaphysical forces aimed at solving social and economic problems such as poverty and lack of loss of souls as an offering to the devil, and I recently entered football stadiums that the losing team attributes It comes down to magic and sorcery.

This phenomenon is not the product of a specific moment, but rather has roots that extend since ancient times, but it was not adequately addressed, and the law remained oblivious to its treatment for a long time, as we did not find in many Arab legislations a clear definition of the concepts of magic and sorcery, some of these legislations punish the magician or Al-Magus is accused of fraud, while others consider it a crime of harm, and other legislations define it as one of the crimes against public trust.

Definition of magic and sorcery (Alaqdeah Encyclopedia,2020)

Definition in language: a phrase about what is hidden and the reason for it is kindness, and from it it is called magic because it takes place hidden at the end of the night, and from it the saying, may God bless him and grant him peace: ((From the statement to witchcraft)) because of the ability of the one characterized by it to conceal the facts.

Definition in Islamic legislation: it is determination, sophistication, and knots that affect hearts and bodies, so they get sick and kill and separate a person from his wife, God says: "So you will learn from them what they can separate between a man and his wife."

And God commanded to seek refuge in magic from magic and its people, so God said, "And from the evil of the jets in the knots" and he means the sorcerers who are blowing into the knots of magic, and magic is true for him. And so He commanded us to seek refuge in Him from it, and its effects appeared on the bewitched, and God said, "They brought great magic. "He described him as a great, and even if he had no truth, he would not have been described with this description.

This does not prevent it from being of magic that is imagination, as God said about the magic of the magicians of Pharaoh: "It is imagined to him from their magic that it is seeking."

That is, it seemed to Moses that the ropes were seeking like snakes from the power of the magic they had made.

Accordingly, magic has two parts: One of them is real magic. The second: the magic of my imagination. This does not mean that the magician is able to change the facts of things, for he is not able to make a person a monkey or a monkey a cow, for example.

The position of the UAE legislator on the magic and sorcery

The Emirati legislator did not previously punish acts of witchcraft or sorcery with special texts as independent crimes, and that what was applied to acts of witchcraft and sorcery in the Emirates were the texts of the crime of fraud in the event that it had its elements and the improvement of sin, yet the legislator apparently sensed the danger of this phenomenon on society and not The sufficiency of these texts to combat them, especially the difficulty of proving the delivery of money; Witchcraft and sorcery crimes were allocated two separate articles in the last amendment to the Federal Penal Code of 2016. It explicitly stipulated the criminalization and punishment for this crime. Witchcraft was explicitly defined and based on its definition of witchcraft on Islamic law, as it decided that every saying or action contrary to Islamic law is considered witchcraft if it is intended. It affects the body, heart, mind, or will of others, directly or indirectly, whether real or imagined.

As the legislator criminalized witchcraft and sorcery because it harms religion and belief, and not because it is one of the acts harmful to humans, which explains for us that it added Article (316) related to the crime of witchcraft and sorcery to crimes related to religious beliefs and rituals and not to crimes against persons.

The difference between magic and sorcery

The legislator distinguished between witchcraft and sorcery, as the legislator stipulated in the Federal Penal Code, specifically Article 316/1.

Magic

The Emirati legislator defined what is considered acts of magic as: a saying or an act that is contrary to Islamic law if it is intended to affect the body, heart, mind, or will of others, directly or indirectly, real or imagined. And we find that the legislator restricted the pictures of activity in the crime by saying or deed that contravenes the provisions of Islamic law. The reason for this is the difficulty of determining the image of criminal behavior in the crime of practicing magic acts, as there are many methods and tools that magicians resort to, leaving the judge with a wide room for judgment when deciding on magic cases according to the circumstances of each case separately (Munjid, 2018).

Sorcery

The Emirati legislator sufficed to limit the acts that are considered sorcery according to the following:

camouflaging people's eyes or controlling their senses or minds by any means to induce them to see something contrary to the truth with the intention of exploiting them or affecting their beliefs or mind

Claiming knowledge of the unseen, knowledge of secrets, or reporting of what is in the conscience by any means with the intention of exploiting people.

Article 316/2:

Shall be punished by imprisonment and a fine, or either of these two penalties, whoever:

He seeks help from a magician with the intention of influencing the body, heart, mind, or will of others.

Bringing, importing, entering into the country, possessing, possessing, or disposing of any kind of disposition of books, talismans, materials or tools intended for magic or sorcery.

Thus, we find that the Emirati legislator, unlike other legislations, is a difference between magic and sorcery. We conclude that from the forms of criminal behavior in both meanings differs from the other.

Elements of the crime of witchcraft and sorcery

The basic principle is that every crime consists of two pillars: the material element and the moral element. If one of them is left behind, the act is considered non-criminal, as required by the law for some crimes with special intent.

Material element is the crime of witchcraft and sorcery

And the material element of the crime, as stated in Article (31) of the Federal Penal Code and its amendments, means any criminal activity by committing an act or abstaining from an act whenever such commission or omission is legally criminal.

The crime of practicing sorcery according to the text of Article (316 bis 1) occurs in one of two forms: First: camouflaging the eyes of people or controlling their senses or their hearts by any means to induce them to see something contrary to the truth with the intention of exploiting them or affecting their beliefs or minds. The second: Claiming knowledge of the unseen, knowing secrets, or reporting what is in the conscience by any means with the intention of exploiting people.

Camouflage means concealing and changing the truth, deceiving the sight and the senses, so that the victim is deluded into things that are not their reality. Sorcery is a form of fraud on the minds, sights and hearts, and the sorcerer deludes the victim with things that are not true until he controls and exploits the victim.

As for controlling their senses or their hearts, this means affecting the person through the means he uses, which makes him believe in the supernatural power of the sorcerer.

Also, the crime of practicing sorcery is committed by claiming knowledge of the unseen, knowing secrets, or telling what is in the conscience by any means, such as if the sorcerer puts a ball in front of him that emits lights, a map, or a group of stones, and the victim deludes that this sorcerer has unlimited abilities and knows the past, present and future, and he can solve his problems, offering him money, obedience, and everything he asks for in order to achieve his goal.

The crime of practicing sorcery is considered a dangerous crime. The mere act of the perpetrator committing the criminal behavior defined by the legislator with the help of some means with the intention of exploiting and deceiving people, the crime is carried out with him regardless of the result.

The legislator has punished for performing acts of magic, whether it is real or deceit, with or without compensation, and in fact the Emirati legislator was successful when he punished those who say to do witchcraft and sorcery, whether with or without compensation, if he wanted to cut criminal behavior in all its forms, contrary to legislation. The comparison that stipulated profit.

The Result Element

Result Element is the second element of the material element after the criminal behavior, and it can be defined as (the change that criminal behavior brings about in the outside world and obtains the interest or right of the street's worth of criminal protection).

From this definition, it appears that the Result has a material and legal significance. The material meaning is the change that the legislator takes into account when it occurs in the outside world as an effect of criminal behavior and the application of that to the crimes of assaulting a person's right to physical integrity, as the victim was healthy in his body before he committed. The perpetrator has criminal behavior and then becomes infected with his own integrity in one or more of the elements of body safety (Hosni,1988).

As for the legal meaning, it is the legal adaptation of the material effects of criminal behavior and the application of this meaning to crimes of intentional harm, represented in aggression against a right whose merit the street has assessed as criminal protection and as a result of intentional harm a legal idea is aggression against the right to physical integrity.

By referring to the text, we find that the legislator did not require the occurrence of a specific criminal consequence to hold the magician accountable, meaning that once he committed an act of magic as defined by the second paragraph of Article (316 /), he is entitled to punishment, and if his action does not affect the victim actually, the crime is considered a crime of danger And no harm The difference between (physical) harm or event crimes and (formal) behavior or danger crimes is the text of the law. An investigated and tangible assault on the interest subject to criminal protection. Dr. Ramses Behnam, The New Trend in the Theory of Action, Subject and Responsibility (Sorour,1964).

If one of the witches wrote certain talismans in a veil and gave them to one of the wives who dealt with him and asked her to put them in the husband's clothes, then the husband discovered this veil and did not affect it, and by showing the veil to the people of experience and know-how they confirmed that it is sorcery, the magician is considered condemned according to Article 316.21. (Munjid,2018).

As for what the legislator mentioned in terms of the word (direct or indirect), we see that the legislator wanted by this to mean that magic, which is a saying or action contrary to Islamic law, could affect the body of the enchanted, his heart, his mind or his will, whether the magician proceeded to the bewitched, meaning it was There is communication between them as if he fed him food and put magic in it, or sprinkled it with a substance that contains magic, and whether that was indirect in the sense that he did the work of magic and the person to be influenced is far from the magician, like someone who does magic through pictures of people or their own things, It may also be the intention of the legislator that the effect may occur directly or at a later time (Munjid,2018).

The crime of practicing sorcery according to the text of Article (1/316) occurs in one of two forms: The first: camouflaging the eyes of people or controlling their senses or their hearts by any means to induce them to see something contrary to the truth with the intention of exploiting them or influencing their beliefs or minds. Second: Claiming knowledge of the unseen, knowing secrets,

or reporting what is in the conscience by any means with the intention of exploiting people.

Camouflage means concealing and changing the truth, deceiving the sight and the senses, so that the victim is deluded into things that are not their reality. Sorcery is a form of fraud on the minds, sights and hearts, and the sorcerer deludes the victim with things that are not true until he controls and exploits the victim.

As for controlling their senses or their hearts, this means affecting the person through the means he uses, which makes him believe in the supernatural power of the sorcerer.

Also, the crime of practicing sorcery is committed by claiming knowledge of the unseen, knowing secrets, or telling what is in the conscience by any means, such as if the sorcerer puts a ball in front of him that emits lights, a map, or a group of stones, and the victim deludes that this sorcerer has unlimited abilities and knows the past, present and future, and he can solve his problems, so he offers him money, obedience, and everything he asks for in order to achieve his goal, while the sorcerer can obtain the information he claims to know by asking about the victim and about his problems. Indeed, some charlatans have assistants who collect news about the people who deal with Juggler, in order to ensure that they continue with him.

Criminal intent element in the crime of practicing witchcraft or sorcery

The Criminal intent of the crime means intention or wrong in accordance with Article (38) of the Federal Penal Code. Willfulness is the direction of the perpetrator's will to commit the act or abstain when they are legal criminals, due to the events of a direct consequence or other criminal consequence that the offender expects.

As for the error, it is provided by the occurrence of the criminal result due to the perpetrator's error, whether by his negligence, lack of attention, lack of caution, recklessness, or lack of observance of laws, regulations, regulations and orders, as in crimes of manslaughter or wrong injury due to traffic accidents.

The offense of practicing witchcraft is an intentional crime, in which the moral element takes the form of the criminal intent, and for the court of the matter - extracting the elements of the crime, including the criminal intent. When was its conclusion palatable and conducive to the result that it has reached. (Appeal No. 603 ,2018).

We find that the Emirati legislator, when stipulating the crime of witchcraft and sorcery, stipulated in the first paragraph the general criminal intent with its two elements of knowledge and will, saying: "Whoever commits workers of acts of witchcraft or sorcery, whether it is truth or deception, with or without compensation.

But he was not satisfied with the general intent as he returned and stipulated the special criminal intent, which is the intent to influence the body, heart, mind, or will of others. The magician means the acts of magic that he performs by influencing the victim.

The same applies to the crime of practicing sorcery. We find that the legislator stipulated the existence of a special criminal intent, which is to exploit people or influence their beliefs or minds. It follows that if the private criminal intent is denied, the crime will cease according to the text. It was not satisfied only with the availability of the general criminal intent and its elements, knowledge and will; And there are those who see that if the special criminal intent is required, it can sometimes arrange unreasonable results. If a person professes magic or sorcery with the intention of serving people and realizing their dreams, he is not to be asked criminally for the absence of the special criminal intent, as if he worked in preparing veils, talismans, etc. for the sake of Facilitating the marriage of girls or finding jobs and work opportunities, as he is not asked according to the text of Article (316/1) for lack of his own intention. (Munjid,2018)

Punishment for the crime of witchcraft and sorcery

Because of the multiplicity of types of magic, scholars differed in its punishment to two opinions:

The first

The majority of the Sunnis went, that when the crime of witchcraft is proven against a person with an admission or a statement, he must be killed absolutely, without repentance unless he comes as a representative before he is able to do so.

Imam Abu Hanifa said: He kills the magician if he knows that he is a magician and does not repent and does not accept his saying (I leave magic and repent) from him. (Ahkam al-Qur'an,2018).

The second

This is the opinion of Imam Al-Shafi'i, which is that if the magician works with magicians that reaches disbelief, he must be killed as infidelity.

Al-Qurtubi said: It was reported that Ibn al-Mundhir said that if the man said that he was charmed by words that would be infidelity, he should be killed if he did not repent. a felony necessitates retribution, if he intended to do it. (al-Shafi'i',2019).

As for the position of the Emirati legislator, the legislator stipulated in Article 316 that the sorcerer and the sorcerer shall be punished with one penalty, which is imprisonment (from one month to three years) and a fine of not less than fifty thousand dirhams, and the confiscation of seized items, in addition

to the application of the measure of deportation from the country on the magician and the sorcerer.

We find that the punishment set by the Emirati legislator for acts of witchcraft and sorcery is not sufficient, nor is it commensurate with the severity of the social harm that has occurred. Crimes of witchcraft and sorcery would prejudice belief and faith and would open the way to polytheism in God Almighty through faith in the capabilities of the magician, and it would have been the first if The legislator considered her a felony and punished her with temporary imprisonment, at the very least.

As for the penalty for deportation from the state for a foreigner who practices witchcraft and sorcery, this issue raised a legal problem, according to which, is the court obligated to deport the foreigner in the event that it is ruled against him for the offense of practicing magic and sorcery?

The Court of Cassation answered that, “since that was the case and the Court of Appeal had decided to amend the appealed ruling to cancel the measure of deportation based on a bond” that Article 316/2 of the Federal Penal Code, according to which a penalty was imposed on the appellant, did not require the court to judge the measure of deportation in relation to what was assigned to her Whoever commits an accusation, but is a remuneration for her, and Paragraph 1 of Article 316/1 stipulated that - He shall be punished with imprisonment and a fine of not less than fifty thousand dirhams. Anyone who commits acts of witchcraft or sorcery and the second paragraph stipulates that - is considered an act of witchcraft, say or deed A person who violates Islamic law if he intends to influence the body, heart, mind, or will of others, whether real or imagined, and the third paragraph states that - it is considered an act of sorcery. A - camouflaging the eyes of people or controlling their senses or their hearts by any means to induce them to see something other than the truth with the intention of exploiting them or influencing them in their beliefs or minds. B - Claiming knowledge of the unseen, knowledge of secrets, or reporting of what is in the conscience by any means with the intention of exploiting people. The fourth paragraph of the same article stipulates that the court shall order the deportation of the foreign convict from the state. This means that the legislator required, in the event of conviction of the accused, for committing any of the acts mentioned in the preceding paragraphs, a ruling for his deportation. Whereas, Article 316/2 of the same law stipulates that anyone who brings, imports, or enters into the country, possesses, acquires, or disposes of any kind of disposition of books, talismans, materials, or special tools shall be punished with imprisonment and a fine or one of these two penalties. For magic or sorcery. Which is to the effect that the legislator punished the commission of the aforementioned acts and did not necessitate the ruling for the measure of deportation in the event of conviction, but made it optional for the court for not explicitly stipulating it, as is the case in Article 316/1. And while the appealed ruling ruled to cancel the deportation measure and fulfilled the requirements of Article 121/2 Of the penal code, he has used his optional power to order deportation, in line with Article 316/2 of the Penal Code, and then the obituary for him in this regard is not valid. (Appeal No. 546,2017)

It is clear from the court ruling that the matter is up to the court's discretion in assessing the deportation order or not, in accordance with Article 121 of the Penal Code (the Federal Penal Code,2020).

Consequently, we find that the legislator was successful in criminalizing without punishment, and therefore the law has criminalized three practices and actions related to witchcraft and sorcery, the first of which is the magician or the sorcerer, the second is the one who intends a witch or sorcerer and uses him with the intention of harming and harming others, and the third is whoever possesses or acts in any way with materials Or tools dedicated to magic or sorcery, and thus the law has impeded the movement, activity and practices of witchcraft and sorcery in order to preserve society .

CONCLUSIONS

The Emirati legislator was successful in criminalizing the text of Article 316, but he was not successful in punishment, so this crime must be stressed so that the killing becomes condoning, based on the UAE legislator's taking the provisions of Islamic Sharia in criminalization and punishment.

We need to qualify experts specialized in crimes of witchcraft and sorcery from among clerics known for their competence, and their accreditation by the court to prove the causal relationship between the act and the result in the crimes of witchcraft and sorcery and the estimated harm to those affected by this criminal behavior.

The necessity to stipulate the crime of witchcraft and witchcraft in the UAE Information Technology Law, as it is considered a new crime that is committed using information technology means.

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