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THE POLICY OF CRIMINALIZATION AND PUNISHMENT IN THE EFFECTIVE IRAQI TRAFFIC LAW: A COMPARATIVE ANALYTICAL STUDY

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Abstract

The legislator should develop a policy of criminalization and punishment that would set a standard for criminalization, whether based on risk or harm, under explicit provisions so that it is not subject to interpretation by the judiciary. For example, suppose criminal images are identified. In that case, the punishment should be appropriate for each crime with its physical and moral entity on the one hand and on the other to ensure that criminal conduct is reduced. When we say an appropriate punishment, it should be tolerated, such as dropping it or prioritizing the negative punishment of freedom.

1. Introduction

There is no doubt that the legal regulation of any subject is the competence of the legislative authority. Traffic is one of the topics worthwhile, whose organization precisely reveals the application of the principle of the rule of law and the state's keenness to protect both the public and private interests. According to statistics from the Central Bureau of Statistics, the number of transportation whips increased, the number of Siarat per 1,000 inhabitants (176) cars increased annually (4-5). In the face of this increased number of vehicles, there is no infrastructure to accommodate these

media, and the legislator must develop a policy of criminalization and punishment that would set a standard for criminalization, whether based on risk or damage under explicit provisions so that they are not subject to interpretation by the judiciary. If criminal images are identified, the punishment should be appropriate for each crime with its physical and moral entity on the one hand and on the other to ensure that criminal conduct is reduced.

The increase in the incidence of irrigated crimes at present and the harm to those crimes in the public interest and the interest of individuals, and sometimes the injury or danger to those interests. This made us choose the subject of our research marked by S.Yasa criminalization and punishment in the Iraqi traffic law in force to determine the policy adopted by the Iraqi legislator in the law of passage in force whether they would reduce these crimes or not.

The research addresses a fundamental problem of the Iraqi legislator not adopting a clear policy of criminalization and punishment. The legislator has been confused that risk behaviors should fall under the title of criminal offenses and not administrative violations. The legislator also focused on the financial punishment and neglected the discipline that is so negative for the freedom that it had to be waived in reconciliation and waiver. Still, it did not allow the financial penalty to be dropped in all cases as if he wanted the punishment to be of material benefit to the state, forgetting its ultimate goal, namely, to imprison and reform the offender. Therefore, we have adopted an analytical approach to the provisions of the law of passage in force to reach the legislator's objectives from the requirements of the law. We have relied on the comparative approach to compare it with the previous provisions of the law, whether it is contained in general or private rules or other countries.

2. The foundations of criminalization in the law of traffic in force

There is no doubt that public and individual interests are at the center of criminalization in the Penal Code and the standard of its philosophy. This relates to when those interests are harmed or threatened. The Penal Code works to protect it by criminalizing acts that endanger interests and endanger the criminalization of the purpose sought. Thus, it is to protect the public interest and the rights and freedoms of individuals. In further detail, we will divide this research into two demands. The first we will allocate to harm as the basis of criminalization and the second demand, which we will single out for risk as it is also the basis for criminalization.

2.1. Harm is the basis of criminalization.

The damage is intended for about a year to be removed or reduced from the money or the value of that money in a way that prevents the satisfaction of the human need, whether that need is material or moral.¹ Thus, the concept of money is not limited to something of financial value but also involves the money that satisfies the needs of the individual or society. Therefore, the right to life, the right to the body's integrity, and the property right are all material rights. Thus, in the scope of our research, the legislator has given his protection to the first and second rights of the traffic law about the crimes that occur in violation of its provisions or so-called traffic offenses.²

The first right is infringed when causing the death of a person due to the offender driving his vehicle without respecting traffic laws and regulations or a lack of durability and honesty conditions in his truck. Also, in the case of driving the car negligently or carelessly or under the influence of alcohol or drugs or escaped without

informing the competent³ authorities. What is taken on the legislator is that he did not provide other images of error that should have been mentioned. Still, the infringement of the second right is achieved when the vehicle's driver causes severe harm or permanent impairment. As a result of driving the car without considering the laws, regulations, data, and traffic instructions, or because of the lack of conditions of durability and safety of the vehicle or its driving under the influence of the drunk or drugged or it does not help those who have been affected by the crime.⁴ However, his handling of this type of crime was not a court. The legislator omitted the text in case of causing harm or death if it occurred without driving the vehicle as if the vehicle's driver had stopped it in the area designated for the rights and a car came and hit it and resulted in the injury or death of the first vehicle.

Some believe that removing or reducing money is a reduction of the individual's material or moral needs. The individual wants to satisfy, as injuring an individual with health damaged due to the emission of thick smoke from the car is one of the traffic crimes that the legislator has based on the crack in criminalizing it. The harm is to diminish that person's right to the integrity of the body⁵. The crime of damage is required to achieve specific injury in the sense that the protected interest has suffered actual harm from such conduct or the dumping of waste, papers, and cigarettes in the⁶ street. Or the use of an air alarm, multi-tone or similar to animal sounds, or the placement of loudspeakers or whistles that disturb road users⁷.

The last right is the right to property, which relates to what is suitable for ownership and has value in⁸ itself. "We find that the Iraqi legislator has failed to refer to this right despite the novelty of this law," he said. In contrast, the legislator in the repealed law referred to this right by stipulating that others or their property shall punish anyone who has been created for driving a vehicle that has been seriously harmed or ill⁹. While we record a note on the text mentioned above, the number of vehicles is broken by the conduct of the vehicle's pilot because the vehicle is damaged and not harmed because the harm is related to the human being and not to property. However, we believe that individuals must have a provision in the traffic law that explicitly refers to the punishment of those who cause harm to the property of others, whether the property belongs to the state or individuals, without mere compensation because the penalty would reduce the commission of such acts.

It should be noted that there are offenses of harm related to the traffic law that is caused by the law, including those regulated by the law. Such as the crime of assaulting a traffic man¹⁰. Others were not held by the legislator but left to the general rules. They should have been regulated at the heart of the law for their apparent harm to the public interest. the interest of individuals, such as the crime of driving a car with incorrect numbers or without numbers

From all these behaviors, we see natural aggression against the right or interest protected by law¹¹. This means that the offenses of damage contained in the applicable traffic law affect the criminally protected interest, whether it is an infringement of destruction, loss, or deficiency¹².

2.2. The danger is the basis of criminalization.

The danger is meant to be an actual situation that is likely to create an attack affecting the right or the legal¹³ interest. Either harm is achieved or not at all in crimes, either harm or not. Still, the second believes that there is danger and considers it to be future

harm, but is regarded as the basis of punishment for involuntary crimes - which represent the crime that is one of its forms - because it punishes the conduct because it involves the risk of the result¹⁴. An act that the legislator has attended for violating the traffic law may harm, such as driving without market leave,¹⁵ driving under the influence of alcohol or¹⁶ drugs, or driving at a speed higher than legally prescribed¹⁷. If a person is injured or killed, we face a crime of harm, but if no one is harmed, we are in front of a dangerous crime because the latter still exists that threatens individuals in their lives and money. Risk crimes merely endanger the right or interest of criminal protection as the general cause of criminalization, without the need for actual damage to the protected¹⁸ interest. ¹⁹This means that the dispute occurs in the result because the conduct is the same. If the criminal conduct is arranged, it will have a tangible impact on the rights protected by law. If the impact stops at the limits of possible damage to the right, we face a severe crime. This leads us to say that the images of error identified by the legislator ²⁰within the scope of the traffic law are dangerous crimes once the conduct in violation of the law has been committed, whether the behavior is negative or positive.

However, the Iraqi legislator was confused, as he did not address dangerous behavior as a crime but rather an administrative violation. Therefore, it imposed a fine for many risky behaviors without putting the penalty of imprisonment with her. We find it closer to being an administrative fine than a criminal penalty for detail if we look at the fine. We will come to his statement when talking about the punishment. Therefore, limiting criminality to harm without danger loses the penal code its preventive status²¹.

3. Type of punishment and proportionality in traffic offenses

Traffic crime is one of the crimes that cause damage to the fundamental pillars of society or is limited to the danger to its interests. Therefore, to punish its perpetrator is to protect the organization's entity, and to highlight this, we will divide this research into two demands. The first we will allocate to the type of punishment in these crimes, and the second demand we will single it out to suit the sentence with the crime.

3.1. Type of punishment for traffic offenses

Initially, there are three penalties for the perpetrator of the crimes: the death penalty, the deprivation of liberty, and the fine. However, the first does not enter into traffic offenses as it is a non-intentional crime. So the penalty for traffic offenses is either liberty-negative or a fine. So we will divide this requirement into two branches, the first will be allocated to adverse penalties for the crime, and the second will be singled out for the fine.

3.2. Custodial sentences for traffic offenses

The legislator was included in imposing the negative punishment of freedom under the seriousness of the conduct contrary to the traffic law as he was punished by a minimum of one month and not more than three months or a fine for anyone who drove a vehicle without market leave or a canceled market permit and the reservation of the vehicle for a period of not more than (10) ten days²². In contrast, the Iraqi legislator in the repealed traffic law was punishable by at least one month's imprisonment and no more than six months without being chosen with a fine. The legislator was also sentenced to at least one month's imprisonment and no more than three months' imprisonment, a fine, or both of the penalties for the owner or owner of the vehicle if an unauthorized person was allowed to drive the vehicle. While the

maximum penalty under the repealed law was no more than six months, the legislator in the law in force punished the driver of the vehicle under the influence of a drunk or drugged person with a minimum of three months' imprisonment and not more than one year or a fine or both²³. At the same time, the legislator in the repealed traffic law has imposed a substantial penalty and the penalty as mentioned earlier. The reservation of the vehicle for one year and the possibility of withdrawing the market permit for not less than two months and not more than one year²⁴. In the case of returning to the jar within one year of the date of the final sentence against the offender, the penalty shall be imprisonment for not less than six months and not more than one year or a fine or both punishments under the applicable traffic law²⁵. The repealed law did not differ from the law in force in terms of applying the provisions of the oud but added a substantial penalty, namely the withdrawal of market leave for at least six months and not more than one year²⁶. If it causes severe harm or permanent impairment due to driving without respect to laws, regulations, data, and traffic instructions, or because of the lack of conditions of durability and safety in the vehicle, the penalty is imprisonment for at least six months and not more than two years or a fine or both sentences in the law²⁷. Suppose the offense stipulated in paragraph (1) of the law in force occurs while driving under the influence of a drunk or drugged, or has not assisted those convicted of the crime or has not been asked for assistance with the ability to do so. In that case, the penalty shall be imprisonment for at least one year and not more than three years or a fine.²⁸ The repealed law did not differ from the sentence in both images.²⁹ If some of the sanctions are not different in the law repealed from the law in force, isn't the first to work to amend the repealed law and not to pass a new law to promote a culture of completing legal construction and not building again, which is what developed countries want.

The legislator then moved in the law in force to show the prison³⁰ sentence, as he was punished with imprisonment of more than seven years and a fine for anyone who caused the death of a person as a result of driving the vehicle without respecting the laws and instructions of the traffic regulations and dropped this punishment in the case of waiver and consent³¹. In the repealed legislation, the penalty for such an offense was limited to a minimum of five years' imprisonment and not more than seven years without providing for the penalty to be imposed in the case of waiver and consent.³² The penalty differed from the repealed traffic law in that the latter put two limits on the penalty, while the law in force only set one limit. He also did not give the court the power to drop the sentence in the event of waiver and consent. The applicable traffic law imposes a prison sentence of at least seven years and not more than ten years and a fine if it arises from the crime mentioned in paragraph (I) of the same article, the death of more than one person or the end of a person, serious harm or permanent disability to one or more persons, and the penalty shall be dropped in the case of waiver and consent.³³ This negative punishment of freedom in this law differed from the repealed law only in the amount of the fine and the fall of the prison sentence in the case of waiver and consent in the direction in force without abolition. But suppose a person causes the death of a person due to driving a vehicle negligently or carelessly or is under the influence of alcohol or anesthetic or escapes without informing the competent authorities of the incident. In that case, his sentence shall be at least seven years' imprisonment and not more than ten years imprisonment, and a fine and the prison sentence shall be dropped in the case of waiver and consent. He shall be sentenced to³⁴ at least ten years imprisonment and a fine if the crime mentioned above arises from the death of more than one person, the death of a person,

serious harm or permanent disability to one or more persons, and the penalty shall be imposed in the case of waiver and consent.³⁵ It is worth standing by, as the legislator has combined contradictions. The vehicle driver has not committed a crime without the initiative to assist the person involved in the crime. He will be immediately transferred to the nearest hospital or health reservoir or helped in any way if he cannot be transported or the accident occurs in the areas designated for a pedestrian crossing. Suppose he leaves the scene without the permission of the investigative authority in an aggravating circumstance to obey the provisions of article (135, 136) and returned at the end of the article and provided for the fall of the penalty in the event of waiver and³⁶ consent. How can it be stressed and at the same time the penalty shall be imposed upon waiver and support, because the two conflicts do not meet and do not rise, yes, in the case of a reduced legal excuse for inflicting this on the court and not obligatory as the legislator did in the law in force?³⁷

After we talked about the unfavorable penalties of freedom in this law, we summarize that the legislator sometimes sets the minimum penalty without setting the upper limit and sometimes does the opposite, and that does not enable the judge to act his discretion to reach judicial uniqueness in each case according to its circumstances. Sometimes the court must drop the sentence in the case of waiver and consent. This is not what we agree with, as this should be done on some but not all crimes and when crimes should be dropped and when they may be dropped. We also found that the legislator provided for the fall of the negative punishment of freedom, which is imprisonment without imprisonment, which is one of the forms of the sentence that is negative for freedom, so what is the reason for the survival of the less severe punishment compared to the harsher prison sentence in terms of adultery. The legislator did not authorize the abolition of the prison sentence if imposed without a fine or with a fine, even if there is a waiver and consent between the offender and the offender.

All this occurred without relying on a specific criterion, whether the risk arising from the act or the damage caused in determining the negative punishment of liberty. Instead, he neglected both requirements if the traffic crime was of the type of felony, indicating that the court had to drop it in the case of reconciliation and waiver.

4. Penalty of fine

The Iraqi legislator in the traffic law in force confused the fine in its administrative sense with the fine in its³⁸ penal sense. This is reinforced by his violation of the Fines Act No. 6 of 2008, as he has spent 25,000 dinars on anyone who crosses other than the places designated for³⁹ transit. While the penalty for violations starts at (50,000) 50,000 dinars. I am not discussing whether this picture is an administrative or criminal violation, but the legislator should indicate when the offense is administrative or criminal. He also did not comply with the hierarchy contained in the fines law as he started with a fine (200,000) 200,000 dinars and then put a fine of (50,000) fifty thousand and then after a fine (25,000),⁴⁰ reflecting a flaw in the drafting of the legislation.

Let's look at article (28) of the applicable traffic law. We find that the traffic officer has been given the authority of the misdemeanor judge to impose the penalties stipulated in the articles (25,26,27) mentioned. This means that the fine is criminal and not administrative. Still, we say that under the principle of separation of⁴¹ powers,

the task of inflicting penalties should be entrusted to the competent judge and not to an official of the executive branch.

We also found that the Iraqi legislator in the traffic law in force is the best court between imprisonment, whether the offender is a violation or a misdemeanor, and a fine. While, the legislator should appreciate the seriousness of some crimes and put a prison sentence without a fine, especially if the offender is financially luxuriant and does not affect the fine. We also found that the legislator raised the fine about the repealed traffic law and dropped the penalty of imprisonment. Does that mean that the legislator is more interested in obtaining the revenues arising from the fine than in the function of deterrence of the penalty and achieved by imprisonment more than the fine? It is as if he is thinking of maximizing the resources of the emerging state from the fine, and indeed that is meant by the provision at the heart of the law that half of the money collected from the fines goes to the state treasury⁴². However, in doing so, he ignored the real purpose of the punishment, namely, forced and reformed.

Moreover, the legislator did not adopt a specific criterion in determining the fine, whether it is based on the seriousness of the act on the lives of individuals or the basis of the severity of the damage caused by the action and whether the severity of the injury is that of natural persons or on material objects. Perhaps the closest is his reliance on damages in determining the fine instead of increasing its more severe result. Finally, we noticed that the legislator combined prison with a fine for traffic offenses but dropped the prison sentence in case of waiver and consent without a fine. Isn't it the first to drop the penalty of forfeiture, significantly since he dropped the toughest and most insidious, or does the legislator not waive the revenues of the fine, even if there is a waiver and consent between the offender and the victim or the relatives of the latter in the event of his death?

5. Proportionality between punishment and crime

It should be a fit between the crime and the penalty specified for its removal. That is, between the unlawful conduct issued by the perpetrator and the amount of pain he was subjected to due to the illegal act. The more the punishment is proportionate to the criminal behavior, the more conviction is generated by the criminal rule in such a way as to ensure that it achieves the desired function of reform and evaluation.⁴³

There are two criteria for proportionality, one personal and the other objective. The first is that the amount of punishment is proportional to the degree of an error made by the offender. The second relates to the fact that the sentence is proportionate to the gravity of the crime. In the scope of the subject of their research, we should ask whether the legislator relied on the degree of error or the seriousness of the result in the penalties imposed in the law of passage in force, or did he take both criteria?

In response, we say that the legislator has taken the criterion of the gravity of the result in determining the punishment, especially if the crime leads to more than one person or the death of a person and inflicting serious harm or illness on more than one person. He also took the criterion of the degree of error in the assessment of the sentence, as the judge was given the power to determine the appropriate punishment, both in terms of quality and type depending on the degree of error. The legislator gave the judge the ability to free up the sentence based on the degree of error, sometimes on the choice of punishment between the two limits, and sometimes by choosing a fine

without imprisonment if the imprisonment comes with the penalty of a fine. But we have noted that the legislator in the law in force has reduced the minimum. Highest penalty to the minimum and highest penalty, sometimes lower than the repealed law, and in any case made it optional with the punishment of fine, which indicates that the legislator emptied the detriment of its objectives, especially about adultery and reform. There are traffic offenses that deserve a little time in prison or a choice with a fine. Still, there are other crimes in which the legislator should be based on the degree of error. The judge is not given the power to choose between imprisonment and fine with the possibility of giving him the power to choose in terms of quantity and not in terms of type. The penalty limits should also be set according to the degree of error that achieves the pain and reform to which the penalty is intended and the proportionality between the unlawful conduct and the sentence specified for it is completed.

As for the criterion of gravity as a result of the crime, the legislator imposed the prison sentence based on the seriousness of the outcome, mainly if the crime results in the death of more than one person or the death of a person and severe harm or permanent disability to one or more people. With the distinction between whether the behavior was the result of a violation of the law and regulations or driving the vehicle negligently or carelessly or was under the influence of drunk or drugged or escaped without informing the competent authorities of the incident. The penalty is at least ten years imprisonment and a fine of at least 5,000,000 and no more than 1,000,000, and the penalty shall be dropped in the case of waiver and ⁴⁴consent.

We find that the Iraqi legislator adopted the personal and objective criterion in section (III) of the article (36) of the law on traffic enforcement. He based his standard on driving the car with care, negligence, drunk or drugged, or escaped without informing the competent authorities of the incident. As for the objective criterion, we will condemn it as the death of more than one person or the death of a person and the infliction of severe harm or impairment on one or more people. However, we note that the legislator, despite adopting both criteria, did not specify the maximum penalty but only set the minimum. In contrast, the repealed law and the penal code set the minimum and highest penalty so that the judge could exercise his authority to apply judicial uniqueness within its limits.

On the other hand, we find that the legislator, although the two criteria were achieved together in this crime, dropped the penalty in the event of a waiver and consent. This means that the private interest of the individual prevails over the public interest. Still, he has squandered the right of the state to punish this crime despite the nature and circumstances of the crime to prioritize restorative justice over the ⁴⁵idea of the state's right to punishment. We disagree with him because the requirements of proportionality between punishment and corruption are provided for and applied to the perpetrator of criminal conduct to achieve both private and public deterrence. Particularly with the increase in transportation, the small number of streets compared to it and the failure of many of those who lead them to abide by the rules of the mirror. This calls for not dropping the punishment, even if there is a waiver and consent, because this is a sacrifice against the right of society and the individual. The crime is aggression against the community, especially in the criminal picture in question. The infliction of punishment is a necessity to deter the perpetrator and others from attacking it. As for sacrificing the individual's right, it is done when the victim dies, and the person who has the personal right is affected to waive the

perpetrator by various means and means. Here we say any satisfaction for those who lost their lives due to the reckless driving of the offender or being under the influence of drunk and drugged or escaped without telling the authorities. The legislator did not stand there but combined contradictions in one text, on the one hand, which stipulates that the failure of the perpetrator to take the crime of trampling with the help of the perpetrators is aggravating harm. At the end of the paragraph, the penalty shall be imposed in the case of waiver and consent. In doing so, he did not stand in violation of the rule of proportionality between the crime and the penalty. Still, he violated the general rules, which provide a stiffer penalty when there is an aggravating circumstance in the crime. Still, the legislator in the law of traffic in force went to the contrary by providing for the dropping of the sentence, even if there is an aggravating circumstance in the case of waiver and consent. Therefore, the legislator did not consider the mistakes of the perpetrator, namely, his error for the first time, which resulted in the crime, and the second mistake of failing to help the victim or escape without informing the authorities⁴⁶. It was better for the legislator to tighten it instead of bringing it down.

The legislator's position in dropping the sentence in the event of waiver and consent raises many problems. It includes that he did not give the court discretion to agree to the disclaimer and consent, even if it happens, because the text says it is dropped and not the court's statement to agree to the waiver and consent. It would have been better for the legislator to give the court discretion so that the waiver and consent were not binding on it, especially if it became clear that the offender had a history of the same crimes or was sentenced to a suspended sentence.⁴⁷ One of the problems is that the legislator dropped the punishment when waiving and agreeing to crimes of the type of crimes, but he kept it. If there is waiver and consent in crimes of the kind of misdemeanors, and if there is a need to drop the punishment, it is the first misdemeanor of the crimes.

In the law on traffic in force, the Iraqi legislator imposed a sentence of deprivation of liberty and a fine on the perpetrators of traffic offenses once in a combination and again one by one under the legal text. However, the legislator did not impose the death penalty because the crime was unintentional.

6. The conclusions and discussion

The grounds for criminalization on which the criminal rule should be based are harm and danger. Within our urging, we have found that the legislator has adopted the criterion of harm in criminalizing conduct contrary to the Law of Moore to some extent. The risk criterion was not clear, but it was sometimes mentioned in administrative offenses and sometimes within criminal crimes, without clearly defining both images. The fine stipulated in the traffic law is closer to being an administrative offense than a criminal penalty, through its amount and the competent authority to impose it. We have noted that the prison sentence contained in the traffic law was not imposed by the legislator alone, but it was fine. Therefore, the fine is entitled to be set without imprisonment. This includes a disruption of the deterrent force of the prison sentence and the primacy of the material benefit arising from the punishment instead of the adultery and reform included in the penalty of the penalty imprisonment. We found that the legislator lost the prison sentence stipulated in the law of passage in force. He did not put the punishment between two limits in some crimes to ensure that the judge exercised his authority to punish the punishment uniquely. He had to drop

the prison sentence in the case of reconciliation and consent and did not allow the waiver of the fine, which prevails in the individual's interest on the right of the state to punishment. Therefore, we wish the Iraqi legislator to amend the traffic law by relying on criminalization on the damage that affects the right to property and not limiting it to the right to life and the freedom to the body's safety, as this affects the public and individual financial interests. We recommend that the Iraqi legislator amend some provisions of the traffic law by committing imprisonment for certain crimes and not alternative with the punishment of fine because the penalty of imprisonment in it is a reform that ensures that the crime is not committed again. We recommend amending the traffic law, especially the text of article (37) paragraph first, which opposed the general rules of the Penal Code by stating an aggravating circumstance at the beginning of the section and dropping the penalty at the end of the paragraph if there is a reconciliation and waiver. Here it is not right to combine the two extremes by emphasizing and dropping in one. We recommend that the legislator amend the traffic law by not dropping the prison sentence for crimes of the type of crimes and if there is a need to identify them and not to release them on all crimes. Especially in the absence of increased crimes as a result of exceeding the rules of traffic and the diversity of modes of transport in a manner commensurate with the number of roads that exist throughout the country, and to impose a necessity to drop them should be permissible and not obligatory to achieve the requirements of judicial uniqueness of the punishment.

¹Dr. Abdel Fattah Mostafa Al-Saifi, General Provisions of the Penal System, without mentioning was printed, 1995, p. 195.

²Traffic offences (all illegal human behavior in traffic law, issued by the driver or owner of the vehicle endangering the fundamental or secondary interests of members of the community or harm, whether negative or positive, the criminal legislator has set him a criminal penalty), considers Said Ahmed Ali Qassem, Traffic Crimes, Doctoral Thesis, Faculty of Law, Alexandria University, 2009, p. 63.

³ Paragraph (first) of Article (36) of the Iraqi Traffic Act in force.

⁴ Paragraph (first, second) of article (35) of the iraqi traffic law in force.

⁵ Dr. Ramses Behnam, Criminalization Theory in Criminal Law, Knowledge Facility, Alexandria, without mentioning the year of publication, p. 492.

⁶Item from the paragraph (thirdly Article (25) of traffic law No.

⁷Item (Going to) from the paragraph (thirdly Article (25) of traffic law No. 8 for 2019.

⁸ Dr. Fakhri Abdul Razzaq al-Hadithi, Explaining the Penal Code – General Section, Dar al-Sanhouri, Baghdad, i1,2015,p. 294.

⁹ Article (23) of the Repealed Traffic Act No. (86) of 2004 repealed.

¹⁰Paragraph (secondly) of the article (38) From the traffic law. The influential Iraqi.

¹¹ Dr. Adam Samian Dhiab Al-Ghariri, Descriptions of Early Crimes, Research published in Tikrit Law University Journal, C1, Year 2, Volume (2), Issue (2), 2017, p. 6.

¹² D. Mahmoud commendable Mustafa, explain the penal code – General Section, i10, 1983, p. 280.

¹³ Dr. Ahmed Shawky Abu Stiqa, Crimes of Public Endangerment (Comparative Study), Arab Renaissance House, Cairo, 1999, p. 18.

¹⁴ Dr. Ramses Behnam, former source, p. 113.

¹⁵ Article (32) of the Iraqi Traffic Act in force.

¹⁶ Paragraph (first) of article (34) of the traffic law in force.

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- ¹⁷Section (c) of paragraph (first) of article (25) of the Traffic Act The window.
- ¹⁸ Dr. Mahmoud Najib Hosni, *Causality Relationship in the Penal Code*, Arab Renaissance House, Cairo, 1983, p. 48.
- ¹⁹ Dr. Maamoun Mohammed Salameh, *Penal Code – General Section*, i4, Arab Thought House, Cairo, 1984, p. 181.
- ²⁰ Article (411) of the Iraqi Penal Code No. (111) of 1969.
- ²¹ Abd El , Basit Mohamed Seif Al , *Hakimi General Theory of Crimes of General Danger*, Ph.D. Thesis, Faculty of Law, University of Baghdad, 2000, p. 181.
- ²² Article (32) of the applicable traffic law.
- ²³ Paragraph (first) of Article (34) of the Applicable Traffic Act.
- ²⁴ Paragraph (1) of article (22) of the repealed traffic law, it should be noted that the legislator in the law in force did not impose a consequential penalty for this crime.
- ²⁵ Paragraph (II) of Article (34) of the Applicable Traffic Act.
- ²⁶ Paragraph (II) of Article (22) of the Repealed Traffic Act.
- ²⁷ Paragraph (first) of Article (35) of the Applicable Traffic Act.
- ²⁸ Paragraph (II) of Article (35) of the Applicable Traffic Act.
- ²⁹ Paragraph (1) of Article (23) of the Repealed Traffic Act.
- ³⁰ The prison means taking away the freedom of the person for a period of time to be carried out in specific places for this purpose, Dr. Ali Hussein Al-Khalaf, Sultan al-Shawi, considers the principles of the Penal Code – General Section, Dar al-Sanhouri, Baghdad, 2015, p. 424.
- ³¹ Paragraph (first) of Article (36) of the Applicable Traffic Act.
- ³² Paragraph (first) of article (24) of the repealed traffic law.
- ³³ Paragraph (II) of Article (36) of the Applicable Traffic Act.
- ³⁴ Paragraph (III) of Article (36) of the Applicable Traffic Act .
- ³⁵ Paragraph (IV) of Article (36) of the Applicable Traffic Act.
- ³⁶ Paragraph (first) of Article (37) of the Applicable Traffic Act.
- ³⁷ Paragraph (II) of Article (37) of the Applicable Traffic Act.
- ³⁸ Dr. Ghannam Mohammed Ghannam, *Criminal Administrative Law – Comparative Study*, Think Tank, Cairo, 2019, p. 73.
- ³⁹ Article (26) of the Iraqi Traffic Act in force.
- ⁴⁰ Consider paragraph (first, second, third) of article (25) of the iraqi traffic law in force.
- ⁴¹ Article (47) of the Iraqi Constitution of 2005.
- ⁴² Article (43) of the applicable traffic law.
- ⁴³ Dr. Abdel Fattah Mustafa Al-Saifi, *Criminal Base Analytical Study in light of Contemporary Criminal Jurisprudence*, Modern Egyptian Office of Printing and Publishing, Alexandria, 1967, p. 38.
- ⁴⁴ Paragraph (IV) of Article (36) of the Applicable Traffic Act.
- ⁴⁵ Restorative justice is meant as an optional means to be resorted to with a desire Around The criminal case is at one stage in which the method and procedure are chosen to ensure understanding and resolving the subject of the dispute, considered Dr. Jamal al-Haidari, *Restorative Justice Research Publication*, Journal of Legal Sciences, Faculty of Law, University of Baghdad, Issue (3), 2015, p3.
- ⁴⁶ Dr. Jamal Ibrahim Al-Haidari, *Explaining the Penal Code – Special Section*, Dar al-Sanhouri, Baghdad, p. 285.
- ⁴⁷ The suspension of the execution is intended to suspend the execution of the sentence of imprisonment on those who have not previously been sentenced to commit a deliberate crime and that their personal circumstances or the circumstances

of his crime are convinced that he does not return to committing the crime again, considers Dr. Mohsen Al-Naji, general provisions of the Penal Code, II, Al-Ani Press, Baghdad, 1974, p. 538.

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Fifth: Judicial decisions

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