

The Impact of Iraqi and Egyptian Criminal Policy on Crimes Against Religious Sentiment

Morteza Fathi¹, Mohammed Raad Harbi²

¹Assistant Professor, Department of Criminal Law and Criminology, Faculty of Law,
University of Qom, Iran.

²PhD's student, Criminal Law and Criminology, College of Law, University of Qom, Iran.
Email: m99fathi@yahoo.com

Abstracts

Matters related to rituals and religious matters, the great risks that result from tampering with them, most legislations have sought to secure the necessary protection for religious rituals and rites, by stipulating the criminalization of actions that may affect them. Most countries have guaranteed protection for the people in practicing religious rituals and rites, to achieve reassurance and confidence for them when performing these acts of worship, the constitution and laws have guaranteed this protection. In this study will address the texts that came in both the constitution and laws, that aim to protect religious rituals and rites. It must be noted that the basis is that there is no crime or punishment except by virtue of a text, for this reason it was the duty of the legislator to refer to the actions, that can be considered a crime and also to determine the punishment for anyone who commits them, especially religious rituals and rites. Most constitutions have protected them, the matter did not stop at this point only. Criminal legislation has stipulated its criminalization and also stipulated the necessity of imposing punishment on its perpetrator, with the aim of achieving deterrence from the private and public aspects, which was adopted by both Iraqi and Egyptian legislators, and that Regarding crimes that may harm religious sentiment. Article 41 of the Iraqi Constitution of 2005 stipulates that: "Iraqis are free to adhere to their personal status according to their religions, sects, beliefs or choices, and this shall be regulated by law.". Religious belief is one of the matters that the legislator has given special protection, because of this specificity, the constitution has guaranteed the protection and preservation of freedom of belief. Laws have emphasized this protection and addressed it in specific texts. Among these laws is the Penal Code, which guarantees the protection of these rituals and the punishment of those who violate them. We have observed in both the Iraqi and Egyptian constitutions, in addition to the Penal Code in both countries. The Iraqi Constitution of 2005 granted Iraqis freedom of belief according to Articles 41 and 42 thereof, it organized this freedom in Article 43 thereof. Article 64 of the Egyptian Constitution of 2014 organized freedom of belief. The right to perform religious rituals and build places of worship. The legislator followed a punitive policy to determine the penalties for perpetrators of these acts, these penalties were specified in a general text for all crimes, if we see the necessity of assigning each act to a specific penalty, this penalty must be tightened due to the specificity of these crimes and their impact on the safety and security of society. The legislator did not suffice with imposing penalties, in order to achieve deterrence and settle the offender's behavior, precautionary measures must be imposed in addition to the penalty, We have concluded this

from the texts of the law.

Keywords: Crimes, Iraqi law, Egyptian law, religious feelings, religious rituals.

1. Introduction

The essence of crime in every time and place is the breach of a condition that the legislator considers to be one of the basic and primary conditions for preserving the entity and existence of social life. Criminal law, in order to confront this crime, takes punishment as a way to protect society and public interests and achieve security and peace, and thus maintain the prestige and existence of the state, as there is no guarantee for the perfection of social life in the absence of it. In addition, religious feeling is an innate human being, as it is linked to the personality of the one who embraced it. It is one of the rights attached to the personality of its owner. The constitution and the legislator have stipulated the freedom of religious belief and its protectors and the prevention of tampering with it in a manner that violates the law. Criminal legislation has also stipulated the criminalization and punishment of anyone who insults or disdains religious belief protected by the constitution and protected by legal rules. In this section, we will show the crimes that affect religious feelings, which are stipulated by the constitution and law in both Iraq and Egypt. The research problem stems from a question about the nature of criminal policy in Iraq and Egypt, in confronting crimes that affect religious feelings. Through this research, we have tried to answer this problem according to what It will be discussed, and the approach followed in this research is the inductive approach and the analytical approach through studying the legal texts in Iraq and Egypt that dealt with the issue of criminal policy in confronting crimes that affect religious feelings, and this research was divided into two sections, and we will devote the first section to studying the protection of religious rituals and rites, and as for the second section, we will devote it to studying the prevention of disruption of the performance of religious rituals.

First topic:

Protection of religious rituals and rites:

Most countries have guaranteed protection to the people in practicing religious rituals and rites, in order to achieve reassurance and confidence for them when performing these acts of worship. Due to the privacy that these countries impose on religious belief, the constitution and laws have guaranteed this protection. In what follows, we will state the texts that came in both the constitution and the laws that aim to protect religious rituals and rites.

First requirement

Protection of religious rituals and rites in the constitution

The constitution is defined as: "The political document that is intended to clarify the form of government and organize the legislative and executive authorities and also determine their powers, and what is meant by that is that it is considered the document that clarifies the system of government in the state."⁽¹⁾.

In another definition, it states: “The document that includes and contains all the legal rules organizing the public authorities in the state, and what is meant by that is that it is related to the system of government and the relationship of the governing bodies with each other on the one hand, and also their relationship with individuals on the other hand.”(2).

Some have defined it as a document containing a special legal sanctity, which would define the framework and main mission of the government agencies within the state, and would also declare the principles that these agencies must operate according to and under.

In addition to that, the state's constitution is its highest law, and the reason for that is because it defines the structure and form of the state, its system of government, the powers of the public authorities, and the rights and freedoms of individuals that it guarantees, and all authorities in the state work on this basis: the judicial, executive and legislative. In this regard, we can note that the supremacy of the provisions of the constitution came due to the way it was drafted and the procedures for amending it, so the national legislator may not violate the provisions of the constitution when issuing laws, and in the event of violating that, it would be meaningless and would be ruled unconstitutional.

When religious beliefs were among the most important and highest values related to man, the constitutions sought to protect them and stipulate them in the core of the constitution, regardless of the system of each state, and because the constitution guarantees this freedom, the same protection that peoples believe in for their constitutional charters also extended to it (3).

It must be noted that most constitutions stipulate the right to practice religious rituals and perform the rites of the religions they recognize, and we will clarify what is stated in the Iraqi and Egyptian constitutions in this regard.

Section One

Protection of religious rituals and rites in the Iraqi Constitution

The constitutions in Iraq included what guarantees the protection of the freedom to practice religious rituals and rites, in a manner that does not violate public order and public morals. This is what was included in the Iraqi Constitution issued in 1925 and then in 1970, up to the draft Constitution of the Republic of Iraq issued in 1990, where Article 62 guaranteed freedom of religion and the practice of religious rituals and rites, in a manner that does not conflict with the provisions of the Constitution and laws, or violate public order and morals (4).

On this basis, Article 41 of the Iraqi Constitution of 2005 also stipulated that: “Iraqis are free to adhere to their personal status according to their religions, sects, beliefs or choices, and this shall be regulated by law.” In addition, Article 42 states that: “Every individual has freedom of thought, conscience and belief.” Article 43 of the Iraqi Constitution of 2005 also states that:

First: Following Every religion or sect is free to:

A. Practicing religious rituals, including Husseinite rituals.

B. Managing endowments, their affairs and religious institutions, and this shall be regulated by law.

Second: The state shall guarantee freedom of worship and the protection of its places.

It must be noted that the previous text is intended to guarantee freedom and the right to practice religious rituals for all sects or official religions recognized by the state, in addition to the provision for the protection of places of worship, but it is noted that this article did not stipulate this freedom, in comparison with other constitutions, and where the legislator was satisfied with emphasizing the role of the law in regulating rights and freedoms in Article 46 of the Iraqi Constitution of 2005, which states: "The practice of any of the rights and freedoms stipulated in this Constitution shall not be restricted or limited except by law, or based on it, provided that such determination and restriction do not affect the essence of the right and freedom."

It must be noted from the previous texts that the Iraqi legislator was satisfied with referring in Article 42 to freedom of belief, but at the same time, he detailed freedom of worship in Article 43, as item A of the first paragraph referred to the freedom of individuals to practice their religious rituals, and specifically mentioned the Husseinite rituals, and it is certain that this particular reference is a reflection of the suffering of the followers of this sect under the previous regimes.

As for item B of the first paragraph, it came administratively and organizationally managing endowments and their affairs and religious institutions, and this is regulated by law, and in addition to that, the second paragraph of the same article came to stipulate that the state guarantees freedom of worship and the protection of their places, and since the Iraqi constitution obligated the state to respect freedom of worship and its places, therefore providing the requirements for the protection of these places is one of the duties of the state and all its apparatuses, and gave the right or religious freedom a wide scope so as to guarantee individuals the freedom to practice their religious rituals and rites freely.

In this regard, the Iraqi Constitution of 2005 stipulated in Article 10 that the holy shrines and religious sites in Iraq are religious and cultural entities, and the state is committed to affirming and preserving their sanctity and ensuring the free practice of rituals therein, and the Law of the Administration of the Holy Shrines and Shiite Shrines, No. 19 of 2005 (5).

It must be noted that the Iraqi legislator did not refer in the constitution to restrictions regarding freedoms or the government in practicing religious rituals, and left the matter to positive laws, which determine this practice in line with society. It is worth noting that the Iraqi constitution has protected the freedom of individuals to perform religious rituals and considered it an individual right, and the judiciary must protect these rights as the body that guarantees the implementation of what is stated in the constitution and positive laws, but due to the conditions that affect the political and security situation within Iraq, it is incumbent upon the individuals of the people whose freedoms have been harmed to have a real role in embodying these freedoms and rights on the ground, similar to what Western peoples have done in order to achieve their enjoyment of their rights And its freedoms (6).

In addition, the Constitution of the Republic of Iraq for the year 2005 can be considered the first constitution in the world that stipulated the practice of freedom of Husseinite rituals, despite the existence of texts that guarantee the freedom to practice religious rituals and rites for all religions and sects (7).

Section Two

Protection of religious rituals and rites in the Egyptian Constitution

The Egyptian Constitution issued in 2012 emphasized freedom of belief. This was stated in Article 43, according to which the state guaranteed the freedom to practice religious rituals and establish places of worship for the heavenly religions. Also, what was approved in Article 64 of the 2014 Constitution regarding the freedom to practice religious rituals and establish places of worship for the followers of the heavenly religions, a right regulated by law.

It must be noted that the Egyptian Constitution issued on September 28, 1977 provided for guaranteeing the rights and freedom of citizens, in terms of equality in rights and duties, and non-discrimination or racial discrimination, and Article 46 of this Constitution stipulated the principle of (freedom of belief and the practice of religious rituals), where it stated: "The State guarantees freedom of belief and the freedom to practice religious rituals."

Under previous constitutions, freedom of belief and religious rites were stipulated since the first constitution issued in the Arab Republic of Egypt in 1923. Article 12 states that freedom of belief is absolute, while Article 13 states that the state protects the freedom to practice religious rites and beliefs, in accordance with the customs observed in Egypt, provided that this does not violate public order and morals. In addition, this text has raised strong opposition from the Constitutional Committee, the reason for which is that it does not include any specification. It has a general and absolute application, as it addresses the rites of all religions, while the religions whose rites must be protected are the heavenly religions, Islam, Judaism and Christianity, and it was decided that the text should be limited. With regard to the rites of these religions. No new religion is allowed (8).

In this regard, the text of Article 46 of the Egyptian Constitution of 1971 came in an absolute form, and the absolute is absolute, so the legislator had recognized religious freedom for all Egyptians present. Inside the country, Muslims and non-Muslims. As this freedom includes freedom of assembly to practice religious rituals, occasions and holidays.

As a result of this generalization of the text of Article 46, a question arose about the controls imposed on the freedom to practice worship. Are there restrictions, or is it generalized? This question was presented to the Supreme Constitutional Court. It responded by defining what is meant by freedom of belief on the one hand, and what is meant by freedom to practice religious rituals on the other hand. This issue was raised in response to the challenge to Law No. 263 of 1969, which included the dissolution of the Baha'i assemblies and the cessation of their activities. This decision came as a result of the Baha'i assemblies' denial of the principles of Islam and their criticism of the rest of the heavenly religions. The believers of this religion established their own law that contradicts the provisions stipulated by Islam regarding fasting, prayer and the family system. They also denied that the Messenger Muhammad, may God bless him and grant him peace, is the Seal of the Prophets, and claimed prophethood, and claimed that he was a messenger who received revelation from God Almighty (9).

It should be noted that the Constitution stipulates freedom of belief or religious faith, which is guaranteed by the Constitution, but only by virtue of the amendment of Article 2 of the

Constitution in 1980, which states that “religious beliefs are the three heavenly religions, which are Judaism, Christianity and Islam, and since these three heavenly religions have the right to practice religious rituals in a public and clear manner, it is settled that the text be limited to the rituals of these religions only.

In addition, the Court considered Baha’ism to be one of the non-recognized heavenly religions. Accordingly, the Constitution does not guarantee this freedom, nor does it guarantee the freedom to practice its rituals. The Court compared the text of Article 46 with similar texts in previous constitutions. Since this text releases the freedom to practice religious rituals, while previous texts were restricted to what does not violate public order or morals, and based on that, if the Constitution does not stipulate that public order and morals should not be violated, this is a reality that cannot be exceeded. Or Violating it, and the reason for that is because public order and morals are at the core of the constitution and the rules that are absolutely impermissible to violate.

In application of that, this omission does not mean its deliberate omission, and the permissibility of practicing religious rituals if they are in violation of public order, or contrary to morals, and the reason for that is because the legislator mentioned the text, and even if he did not mention that restriction explicitly, it is a self-evident matter, and it is a constitutional principle, and it must be implemented, even if it was omitted. In the end, the court examining the constitutionality of this law that includes the dissolution of the Baha’i assemblies concluded that it does not conflict with the constitution. Especially what is stated in Article 46 thereof.

Based on that, the court has established and regulated freedom of belief and freedom to practice religious rituals. The doctrine is meant to be linked and related to the three heavenly laws: Islam, Christianity and Judaism. As for the practice of religious rituals, the legislator may be required to reconcile the practice of this freedom with other constitutional principles in terms of not violating public order and morals or infringing on the rights and freedoms of others. In addition, the Supreme Constitutional Court in Egypt has confirmed that: "Freedom of belief and freedom to practice religious rituals are two sides of the same coin and are inseparable." It must be noted that this has prompted the constitution to place them in one article. In application of this, Article 46 of the 1971 constitution indicated that freedom of belief and freedom to practice religious rituals are guaranteed, which means their integration. In addition, they are two inseparable parts, and the second represents aspects of the first as they are a transition from mere faith and its ferment in the conscience. To express its content, in order to be a living application, it does not lie in the issuance, but it provides an important difference through its saying, and then the tourist of the saying that the first of them is not restricted, and that the second of them may be restricted through its organization, and this is to confirm some of the higher interests that are associated with it, and in particular what is related to it in preserving public order and moral values, and through guaranteeing the rights and freedoms of others (10).

In addition to that, the practice of religious rituals differs in terms of boundaries and features, although they agree in content and substance, and the reason is that the practices of religious rituals and rites vary from one society to another, and this is due to the difference in social, political, economic and political circumstances, even if this is within the framework of

recognizing the existence of a minimum level of general commitment among all societies to respect the principled practices related to religious rituals and rites (11).

It should be noted that some support the view that freedom to practice religious rituals should be limited to heavenly religions only, and therefore protection cannot be guaranteed for infidels and atheists, and those who worship the sun, moon or cows, as this cannot be decided to protect them while they associate partners with God Almighty, and since embracing ideas and principles that contradict heavenly laws is a form of human misconduct that loses its owner respect and trust in the eyes of the society that sanctifies heavenly religions and does not despise them. Under penalty of punishment, and therefore, society does not respect those who practice the slogan of belief, or a religion that is not heavenly, as they have no protection or freedom in this regard. In addition, it is noted that the constitution has guaranteed freedom of belief for all people, and did not restrict this to the belief that any person believes in, as it is a matter of the heart. And no one has authority over it in that. However, if these ideas come out in images. Through practicing them and performing their rights, this is not permissible (12).

Second requirement

Protection of religious rituals and rites in the Penal Code

The criminal protection of the freedom to practice religious rituals and rites can be considered one of the most important types of legal protections ever, as it guarantees the greatest degree of respect for these rituals and places of worship, and in addition to that it includes a criminal penalty for anyone who goes to the benefits established to protect the freedom to practice religious rituals, rites, and places of worship.

Section One

Protection of religious rituals and rites in the Iraqi Penal Code

The Iraqi Penal Code contains clear aspects regarding the practice of religious rituals, but the state's interest in Iraq was not limited to Muslims only, but rather extends to the endowments of non-Muslims according to their loyalty and interest in freedom of worship, and the practice of religious rituals for non-Muslim sects, and where the state guaranteed, under the constitution, as we mentioned previously, a number of legislations related to the practice of religious rituals and the protection of holy places for religious sects and how to organize them (13).

In this regard, the Penal Code surrounded the freedom of religions and the practice of religious rituals with special criminal protection, and where this protection was established through penal laws, and in application of that, the Ottoman Penal Code in 1859 referred to this protection, in Articles 132 and 133. This is also what was indicated by the Baghdad Penal Code of 1918 in Articles 210 and 211. As for the current Iraqi Penal Code No. 111 of 1969, it has limited the forms of crimes and protection from them in Article 372. Based on the above, we conclude that the aim of these texts is to criminalize any public, written or verbal assault that occurs at the hands of one of the basic religions, which the constitution guarantees and which in itself constitutes an attack or violation of the religious sentiment of a group of religious sects that it has protected and whose protection the constitution has guaranteed. Article 372 stipulates that: "Anyone who: (publicly attacks a belief of a religious sect, or belittles its rituals, or intentionally

disrupts the performance of religious sect rituals, or a religious ceremony or meeting, or intentionally prevents or disrupts the performance of any of these, or anyone who destroys, damages, disfigures or desecrates a building prepared for the performance of religious sect rituals, or a symbol or other thing that has religious sanctity, or anyone who prints or publishes a book sacred to a religious sect, if he intentionally distorts its text in a way that does not change its meaning, or if he belittles a ruling of its rulings or any of its teachings, or anyone who publicly insults a symbol or person who is a subject of sanctification, glorification or respect for a religious sect, or anyone who publicly imitates a religious ritual or ceremony with the intent to ridicule.” From him."

It is worth noting that the crimes stipulated in the previous article are established to protect official religions, which are recognized by the state or recognized by the constitution, and therefore the attack on other religions and religious sects is not considered a crime that affects religious sentiment, and the reason for that is because the law may tolerate any religion. But it only protects what the state has authorized, and other than that is nothing in its view, and has nothing to do with it. Therefore, a penalty cannot be determined on the basis of an ambiguous characteristic, and on this basis, the state's recognition of the religious belief of a certain religious sect constitutes a basic pillar for the inclusion of the sect under criminal protection. Consequently, its eligibility to be a place for crimes that affect religious sentiment.

Section Two

Protection of religious rituals and rites in the Egyptian Penal Code

The legislator in Egypt has devoted an independent chapter related to the provisions of crimes related to religions in the Egyptian Penal Code, due to the importance of these protected interests in relation to these crimes, and where the criminal legislation came in agreement with the 2014 Constitution, especially in Article 64, and where Article 160 of the Egyptian Penal Code states that: “Anyone who disrupts the performance of the rituals of a religion or a religious celebration specific to it, or disrupts it with violence or threats, shall be punished with imprisonment and also with a fine of not less than one hundred pounds and not more than 500 pounds, or with one of these two penalties, as well as anyone who destroys, breaks, damages or desecrates buildings prepared for the performance of religious rituals, or symbols or other things that are sacred to the members of a religion or a group of people, and also anyone who violates the sanctity of graves or cemeteries, or desecrates them. In addition, the penalty shall be imprisonment for a period not exceeding five years, if any of the crimes stipulated in Article 160 stipulates that it is to be implemented for a terrorist purpose” (14).

As for Article 161, it states: “These penalties shall be imposed on any assault that occurs in one of the ways specified in Article 171 against a religion that performs its rituals publicly. The provisions of this article include printing or publishing a book that is sacred in the eyes of the people of a religion that performs its rituals publicly if the text of this book is deliberately distorted in a way that changes its meaning, as well as imitating a religious celebration in a public place or public community with the intent to ridicule it or for the attendees to watch it.”

It must be noted that some believe that the constitutional texts that guaranteed freedom of belief and the practice of religious rituals were characterized by lack of clarity and dependency, and

then came the legal and legislative texts that also carried that characteristic. In addition, those articles related to religious freedom and the practice of rituals were scattered and dispersed in many legislations and administrative decisions on different topics.

In addition, the texts on freedom of belief, religious practice and rituals in the Egyptian legal system have clashed between the constitution and ordinary legislation, and have not come with a unified law to regulate religions and the practice of worship. If it has criminalized attacks on them, protected them, and also decided to protect places of worship, guarantee change of religion, practice religious rituals, maintain the security of religious occasions and recognize legal personality, even for those of religions unknown to the Egyptian system and constitutional history, then these texts did not come only scattered, but rather came in conflict with each other (15).

Based on the above, we note that the legislator in Egypt has guaranteed its protection with regard to the practice of religious rituals for those of the official heavenly religions. They alone were allowed to practice religious rituals within the country. She said, "I have come to you with the guarantee by ensuring the greatest possible protection for the practice of religious rituals and rituals, and to fully benefit from them, by criminalizing the act of disturbing the practice of religious rituals or disrupting their practice by violence or threat. His keenness also extended to achieving a mountain of protection by issuing criminal protection for places where religious rituals are practiced for every act that affects those places. Whether by vandalism, breaking, damaging or desecrating buildings prepared to hold these rituals. Or symbols, or things that are sacred to individuals of a religion or a group of people (16).

Section Three

Protection of religious rituals and rites in the Code of Criminal Procedure

The rulings of criminal courts in Egypt have settled on protecting criminal and procedural legitimacy with regard to rights and freedoms that affect personal rights. Arrest and search (17).

In addition, the guarantees guaranteed by the Constitution must be respected, especially the sanctity of belief and the sanctity of private life, as stated in Articles 45 and 46 of the Constitution, and what is stated in the Code of Criminal Procedure, and in particular the right to privacy that is linked to the person's being and dignity, and the loss of which renders his status as a human being void, and the right to privacy, meaning that the person is the master of himself in his leadership, and control of his talents and senses. Without external influence, and that among the aspects of private life in the field of a person's leadership of himself, is freedom of belief, and the freedom to keep secrets or disclose them.

In addition, religious belief is part of the person's being. Hence, its sanctity is from the sanctity of private life, if a person practices it alone and it becomes a public affair and a public freedom, if it exceeds the limits of the individual to be shared by everyone, such as performing religious rituals and official celebrations protected by the constitution and the law.

The difference is that the right to privacy is one of the manifestations of protecting freedom of belief, which has its objective aspect related to the place of protection, which is the human

being in his purely personal aspect. As for a person practicing the belief he believes in, it is done either in public or in secret.

As for the procedural aspect, it is related to the procedures required by the law, primarily the Code of Criminal Procedure, in the permanent detection of crimes, as it respects a set of principles that guarantee a degree of privacy and dignity, especially those acts that are described as an attack on religion, or everything that is a sacred belief, based on his awareness of the necessity of respecting the human being, and the entity of the group to which the perpetrator of the act belongs, or even the victim. Or. The religious value or religious belief that was attacked. Article 40 of the Egyptian Code of Criminal Procedure states that: “No person may be arrested or detained except by order of the competent authorities. He must be treated in a manner that preserves his human dignity, and he may not be harmed physically or morally.”

Second topic

Prevention of interference with the performance of religious rituals

The constitution and laws have guaranteed the protection of religious rituals and rites, and have given their adherents the freedom to perform these rituals, but sometimes some people who dare to engage in behavior that would interfere with the performance of these rituals and deprive a person of his right to practice these rituals. Because of the impact of interference, the legislator has criminalized this act, and any person who practices it is prohibited, and two years are provided for in the following prohibition of interference in the constitution and laws.

It must be noted that criminal legislation did not generally recognize interference, but rather treated it as an objective issue or assessment that differs according to the circumstances of each case. Interference can occur through singing, noise or screaming (18).

The criminal act can be achieved by inciting personal disputes in one of the councils. Or by provoking during the practice of religious rituals and other arts that may interfere with the performance of these rituals (19).

First requirement

Prohibition of interference with the performance of religious rituals in the constitution

Returning to the texts of the constitutions in both Iraq and Egypt, we note that interference was not allocated in a special article, nor was it clearly stated, but the constitution was satisfied with stipulating the protection of religious belief and its freedom. However, these general and absolute texts can be relied upon to establish the prohibition of interference with the performance of religious rituals or a religious celebration specific to a certain sect.

Section One

Prevention of Disturbance of the Establishment of Religious Rituals in the Iraqi Constitution

In Iraq, paragraph two of Article 43 states that: “The State guarantees freedom of worship and also guarantees the protection of its places.” By examining this text, we note that the Constitution guarantees freedom of worship and the protection of its places. There is no doubt that the protection of places of worship takes several forms. This protection is from physical

and moral attacks. Harming places of worship, threatening to demolish them, or preventing people from reaching them are all actions from which places of worship must be protected. In addition, some damages, even if they do not cause physical damage to places of worship, can be guaranteed by this protection. Noise, commotion, mockery, and direct impact on the practice of religious rituals in places of worship are all actions that affect people's freedom to perform religious rituals. Therefore, it was necessary to protect these places from these actions and their impact. Therefore, even if the Constitution does not correctly stipulate disturbance, it can be attributed to the text of the previous article.

Second section

Prohibition of interference with the performance of religious rituals in the Egyptian Constitution

Also, similar to the Iraqi Constitution, the Egyptian Constitution did not explicitly stipulate the prohibition of interference in the performance of religious rituals, as Article 64 of the 2014 Constitution of the State states that: "Freedom of belief is absolute, and the freedom to practice religious rituals and establish places of worship for the followers of heavenly religions is a right regulated by law" (20), and by reading the previous text, it is noted that its main purpose is the freedom of religious belief and the practice of religious rituals related to it, and the establishment of places of worship for permitted religions, and the article ended with the phrase "a right regulated by law", and this is what the rule of law system is based on, as the constitution determines the main framework for the structure of the state, and as for the regulation of relations and legal systems, it leaves the matter to the legislator to enact laws for all political, economic, social and cultural fields, and these laws are regulated in a manner that does not violate the constitution, but rather complements it and benefits it.

Based on the above, even though the Egyptian constitution did not stipulate the prohibition of disturbance in relation to the performance of religious rituals, the laws came to prohibit this act, consider it a crime, and specify the appropriate punishment for anyone who commits it, and this is what we will mention in its place when studying disturbance in the Penal Code.

Second requirement

Prohibition of interference with the performance of religious rituals in the Penal Code

If the constitution did not explicitly stipulate the act of interference with the performance of religious rituals, the penal codes have clearly and explicitly stipulated the criminalization of this act due to its impact on the practice of religious rituals, which the constitution and law guarantee to protect.

First section

Prohibition of interference with the performance of religious rituals in the Iraqi Penal Code

The Iraqi Penal Code No. 111 of 1969 stipulates the crime of interference with the practice of religious rituals, and in this regard, the legislator has allocated a special paragraph for it in Article 372, and this article stipulates imprisonment and a fine for some crimes that affect religious belief or the practice of its rituals or what is related to religious rituals, and among these crimes is the crime of interference, as stated in the aforementioned article: "Whoever

intentionally interferes with the performance of religious sectarian rituals, or a religious ceremony or meeting, or intentionally prevents or disrupts the performance of any of these shall be punished by imprisonment."

It is noted from the previous text that disruption is not obstruction, and the legislator used both terms. Therefore, the assault occurs if it is achieved by disruption only or by obstruction, so it is not required for the act of disruption stipulated in this article to necessarily lead to the disruption of the performance of religious rituals and rites, so that it is punishable by law. Disruption is punishable in and of itself, and if it does not result in disruption (21).

In addition, disruption is stopping or preventing the continuation of the practice of religious rituals after they have begun, such as a group of people closing the street through which the Husseinii processions pass, which leads to the disruption of the list of condolences and prevention, so it is possible to say that it means absolutely not allowing the performance of Husseinii poetry, a person or a group of people leading the closure of the door of the Husseiniiya to prevent the establishment of the condolences council inside it.

In addition, the ceremony means the gathering and gathering of a group of people, as it is usually to commemorate a specific memory or occasion, such as celebrating the anniversary of the Isra and Mi'raj. Or the birth of the Messenger, may God bless him and grant him peace. For Muslims, or celebrating the birth of our Master Jesus. He has two arrested aggressors who embraced Christianity.

It must be noted that the aforementioned text has listed a number of forms of physical behavior that constitute disruption of religious rituals and celebrations, and in terms of the fact that disruption or obstruction in this case are acts that are considered crimes and require punishment, if the intention is to prevent others from practicing religious rituals or celebrating religious occasions, and in this regard a question has been raised about the type of disruption that is punishable, is it the disruption that leads to obstructing the practice of rituals or merely the disruption that disrupts the reverence and calm required to perform these rituals? And is the disruption related to a specific place? Such as mosques, churches or any other place (22).

Some jurists have considered that merely disrupting the reverence and calm required for performing religious rituals is sufficient to hold the perpetrator accountable for this crime. As for the place, some have said that the perpetrator of the act should be held accountable, regardless of the place, as long as its effect extends to the place of worship. It is not a condition for disruption to take place in the place designated for worship, but it may be in a distant place, such as someone who deliberately plays loud music in a place relatively far from places of worship, intending to disrupt it in a way that leads to the loss of the calm required for performing religious rituals or celebrating a religious occasion. As for the condition of performing religious rituals publicly, some have said that what is meant by this is that the religion that performs these rituals, or in the religious celebration, is recognized in the state (). As for disruption, it is a physical behavior directed against a person with the aim of preventing the practice of religious poetry. Hence, if the disruption is achieved in the case of noise and commotion, the act of disruption uses another method, which is the use of physical force represented by violence. Or moral force represented by the threat to force others not to perform religious rituals or

celebrations. Or to start them in the first place. And the intentional violence. It goes beyond the perpetrator's use of his physical energy, and harnessing it in order to infringe on a right protected by law, and this may take a number of forms. Or images. Which cannot be limited. The perpetrator may throw stones at the practitioner of the religious ritual. Or beat them with a stick, or direct them. Pressure from water or cut off the electricity, but it was the practice of religious rituals. Or provoke a quarrel that leads to its disruption (23).

As for the threat, it is any act that is likely to spread terror or fear in the soul of a person. It is intended to inflict it on a person. Or his money, or on a person he knows, or means. The threat is considered a type of coercion, as the perpetrator in this act directs pressure on the will of the victim to direct him to a certain behavior. The legislator did not specify the actions that constitute a threat constituting the crime of disruption or obstruction, as any action or behavior that is likely to strike terror into those practicing religious rituals, or create fear in them of a crime intended to be committed, or harm intended to be inflicted on them, their money, or those they know. It is considered a threat to be punished. It is noted that the threat to commit a crime may be against the person. The means used may be in verbal and written speech, by signs or actions. It may be directly in front of the victim, or it may be through an intermediary. In addition, the Iraqi legislator referred to the crime of destroying, desecrating, and distorting sacred buildings and symbols, as stated in Article 372, paragraph (24).

Whoever destroys, damages, distorts, or desecrates a building prepared for the performance of religious rites, a symbol, or another thing that has religious sanctity. The text speaks of sabotage, destruction, and distortion, and these terms mean that the act diminishes the value of the thing. It affects its validity, the purpose for which it was created, and makes it defective. These matters are taken care of by the judge who is investigating them. Any means or means that may be a cause of destruction and sabotage may be used to characterize this crime.

Section Two

Prohibition of Disturbing the Establishment of Religious Rituals in the Egyptian Penal Code

The Egyptian legislator stipulated the punishment for disturbance within the framework of the crimes stipulated in Article 160 of the Penal Code, which states: "Anyone who disturbs the establishment of the rites of a religion or a religious celebration specific to it or disrupts it with violence or threat, and according to this text, there are two criminal descriptions punishable by law, namely disturbance and disruption."

Accordingly, it is noted that the Egyptian legislator has defined the material act of this crime through one of these two images: the first is disturbance and the other is disruption, and in terms of the fact that disturbance is taken from the verb "shawsha". He disturbed the matter. It is mixed and confused. Disturbed is mixing it. He misarranged it. In addition, the law in Egypt did not define disturbance. This is normal. The law does not set definitions, but rather leaves that to jurisprudence and the judiciary. This is what we notice in criminal legislation in general, as it did not define disturbance. The process of limiting the images of disturbance in a legal text is a difficult matter. Because the act of disturbance changes with the development that befalls humans. In all aspects of life. Technological and technical development. Led to the emergence

of many forms of disturbance. With regard to religious rituals, celebrations or religious occasions, so it was difficult. To specify or define this case. Describes it (25).

As for disturbance, it is the creation of noise and offense, and this disturbance can be caused in any way. This is all left to the discretionary authority of the judge in the result, as he estimates the degree of this disturbance and its description. It can be by sound or movement that makes a commotion in every place where religious rituals, celebrations, occasions or holidays are performed that require tranquility, reverence and dignity. Prayer in Islam requires reverence and tranquility. This is a pillar in it, so any noise on this tranquility is considered disturbance to it, and the provisions of this article may apply to it. Also, mosques are the houses of God, and the voice should not be raised in them so as not to harm others in their prayers and remembrance. In principle, Egyptian law has punished disturbance, even if it does not lead to the disruption of the performance of rituals. Because disruption is more likely to be punishable. This is the other description that the aforementioned article stipulated.

In this regard, the disturbance may be caused by an individual or a group. The noise may be caused by one person through a loudspeaker. Or by his voice with words, and it may be by. A group of individuals. They make sounds that lead to noise. Loud sounds may be made by loudspeakers or by musical instruments and other tambourines. Or drums.

It can be said that disturbance is a physical behavior with a psychological content. It aims to influence multiple souls with sounds and noise to distract them from worship (26).

Disturbance does not require that it lead to the disruption of the performance of religious rituals or celebrations and occasions. Rather, it is sufficient for it to be considered an assault if it affects the religious speech of people during the performance of their religious rituals or occasions (27).

Accordingly, the Egyptian legislator has this dispute when it stipulated the punishment for anyone who disrupts or obstructs the performance of religious rituals and celebrations in paragraph one of Article 160. The legislator has punished the disruption for its own sake, even if it does not result in disruption. It is not required for the disruption to occur in a place designated for the performance of religious rituals and celebrations, such as a mosque or church, but it is punishable even if it occurs in a place other than this place. In the streets, squares and roads. Its effect extends to places of worship. It must be noted that disruption is a physical behavior issued by a person against someone who practices religious rituals or celebrations, and this behavior aims to dissuade the person from practicing religious rituals. Here we note that disruption is more dangerous than disturbance, as it goes beyond merely making noise and uproar to the point of obstructing the performance of rituals, and this disruption is done by violence or threats, and in terms of disruption by violence, it is conceivable by any physical means that leads to subduing the will of those practicing religious rituals and celebrations, and receiving fear and terror in their hearts. This leads to their being distracted from practicing the rituals of their religion or faith.

In addition, disruption can occur in one of the following two cases:

First: Purely physical behavior. Which a person does in order to prevent the followers of the religion from practicing their rituals, by using violence or threats. It is pressure directed at the will of the person. To direct a certain behavior, which is not to perform religious rituals, and this physical behavior can occur in a number of forms. Such as throwing stones at worshippers or collapsing on them by beating them with sticks.

Second: disruption can occur by words, violence or threats. Here, it is a physical behavior with a psychological content. It constitutes a means of pressure on the followers of the religion, preventing them from practicing their rituals. Such as someone who threatens worshippers with shooting them if they do not disperse (28).

Section Three

Prohibition of Printing Religious Books

Article 161 of the Egyptian Penal Code regulates an act that is considered a crime that affects religious sentiment, which is printing books, as stated in the first paragraph of this article: "First: Printing or publishing a book that is sacred in the view of the people of a religion whose rituals are performed publicly if the text of this book is deliberately distorted in a way that changes its meaning."

The legislator stipulated this crime in order to protect the religious sentiment of individuals, to prevent any problems, or infringement on their religious beliefs from harming and hurting their feelings due to belittling, mocking or belittling their sanctities, as religion is a human nature. It is linked to finding solutions to problems from essential issues that arise in every human soul, about creation and the Creator, about the beginning and end of life, and the fate of the end of man after death. The text of this type of criminalization indirectly protects public order and social peace, as the arousal of religious feelings among members of a group may lead to sedition, and exposes society and its security to serious damage, especially in societies that still view religion as a basic component of their identity and existence (29).

It must be noted that the Holy Quran is the holy book of God for all Muslims, and therefore any distortion that affects them is considered an infringement on its sanctity. Distortion is the change from the places of speech, as God Almighty said: (Among those who are Jews, they distort the word from its places). (30) It is by addition or subtraction, and the Holy Book is every book that contains the teachings of a particular religion. It has a special place among the followers of this religion or sect, and they consider it the constitution of their religion and their guide. They sanctify it.

According to the text of Article 161 of the Penal Code, its application. The legislator must have granted protection to the Holy Book, as is the case with the Holy Quran for Muslims, the Bible for Christians, and the Torah for Jews. Religions must be recognized. In the sense of opposition, this protection does not apply to religions that do not perform their rituals publicly and that are not recognized by Sharia.

The legislative purpose of criminalizing this act is that it poses a threat to the trust that people place in the teachings contained in the Holy Book. Distortion and alteration undermine this

trust. God has guaranteed the preservation of the Holy Quran, as He Almighty said: (Indeed, it is We who sent down the Qur'an and indeed, We will be its guardian) (31).

This places a greater responsibility on Muslims to preserve and care for their book and its texts. As for the other heavenly books, they have been distorted and altered. This explains the large number of copies of them. What Muslims and other People of the Book dispute is not the existence of the Torah or the Bible, but rather the incompatibility of the books they claim to be from Moses and the prophets, peace be upon them, with the original heavenly books, science, and historical research. The texts of the Holy Qur'an contain many verses that stipulate the types of distortion and alteration that occurred in the previous heavenly books, represented by addition, subtraction, or alteration. The Jews and Christians seek proof of the existence of the Torah and the books of the prophets in terms of names, not in terms of content.

2. Conclusion:

After we have finished studying the criminal policy in Iraq and Egypt towards crimes that affect religious feelings in this research, we have reached a set of results and recommendations, the most important of which we summarize as follows:

First: Results:

1. The legislator in both Iraq and Egypt, like most countries, agrees on a criminal policy to criminalize crimes that affect religious feelings, and determine specific penalties for each of these crimes.
2. The legislator in Iraq differs from Egypt in that the Iraqi Constitution of 2005 granted Iraqis freedom of belief according to Articles 41 and 42 thereof, and organized this freedom in Article 43 thereof. As for the legislator in Egypt, Article 64 of the Egyptian Constitution of 2014 organized freedom of belief, the right to perform religious rituals, and build places of worship. Religious belief is one of the matters that the legislator has given special protection to, and because of this specificity, the constitution has guaranteed the protection and preservation of freedom of belief, and the laws have emphasized this protection and addressed it in specific texts, and among these laws is the Penal Code, which guarantees the protection of these rituals and the punishment of those who attack them. This is what we have observed in both the Iraqi and Egyptian constitutions, in addition to the Penal Code in both countries.
3. The legislator in both Iraq and Egypt agrees in following a punitive policy to determine the penalties imposed on those who commit these acts, so these penalties have been specified in a general text for all crimes, although we see the necessity of assigning each act to a specific penalty and it is necessary to tighten this penalty due to the specificity of these crimes and their impact on the safety and security of society, and the legislator was not satisfied with imposing penalties, but in order to achieve deterrence and settle the behavior of the perpetrator, it is necessary to impose precautionary measures in addition to the penalty, and this is what we have concluded from the texts of the law. Second:

3. Recommendations:

1. This study recommends that the legislator in Iraq and Egypt emphasize freedom of belief and the right to perform religious rituals and build places of worship to remove doubt and ambiguity, similar to previous constitutions, and provided that they do not violate public order and public morals.

2. This study recommends that the legislator in Iraq and Egypt protect the constitution regarding crimes that harm religious feelings, based on the rule that there is no crime without a legal text, and in particular criminalizing acts that harm religious rituals and rites, contempt and mockery of religion or its symbols, or attacks on places of worship.

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