

# Crimes against United Nations and Associated Personnel in Iraq

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## **ABSTRACT**

*In accordance with the purposes of the United Nations stipulated in Articles 1 and 2 of its Charter, and in the framework of implementing this, they need their own means and tools represented by the international personnel of the United Nations who carry out the task of conducting the work of the international organization. Terrorist crimes constitute a dangerous social phenomenon that threatens society and the lives, freedoms and security of individuals are in danger. It also affects relations between countries and violates the rules of general international law. The research sheds light on the appropriateness of national legislation in providing criminal protection regarding the safety of United Nations personnel and personnel associated with it, so that the protection is appropriate for them. With their major role in implementing the purposes of the United Nations through relief operations and humanitarian aid.*

**Keywords:** *Crimes - United Nations personnel - Individuals associated with the United Nations - Murder of a United Nations employee - Kidnapping of a United Nations employee –*

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## **INTRODUCTION**

Crime in general, including terrorist crime in particular, is a dangerous social phenomenon that threatens society and the lives of individuals, their freedoms and their security at risk.<sup>(2)</sup> It also affects relations between states, and may be an obstacle to the United Nations (UN) and its specialized agencies carrying out their humanitarian and relief activities in many countries, especially with regard to the implementation of purposes. The purposes of the UN set forth in Articles 1 and 2 of its Charter, and within the framework of implementing this, they need their own means and tools which are represented by the international staff of the United Nations who carry out the task of conducting the work of the international organization<sup>(3)</sup>. Sometimes this organization needs other people to conduct its business that may not carry the description of international staff but rather they were called (the individuals associated with the United Nations) and because many of its employees were exposed to serious and different attacks, the need to conclude an agreement to protect them criminally against many Among the acts of violence that constitute crimes punishable nationally and internationally, a decision was taken in the (49) session of the United Nations General Assembly (A / RES / 49 / 59-17 February 1995) regarding the conclusion of a convention for United Nations staff called the ((employee safety agreement) United Nations and associated personnel)). We will also try in this research to shed light on the crimes mentioned in this agreement against United Nations and associated personnel, and explain the position of Iraqi criminal legislation.

### **The importance of research**

The importance of this research is highlighted in the report on the criminal protection of United Nations and associated personnel, whether at the national or international level, and the appropriateness of national legislation in providing criminal protection to them and according to the provisions of the Protection Convention regarding the safety of United Nations and associated personnel, so that protection is appropriate for them. With the great role they play in implementing the purposes of the United Nations, through relief and humanitarian assistance operations.

### **1-2- Research objectives**

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<sup>(2)</sup>Neil Boister- An Introduction to Transnational Criminal Law-2nd, Oxford, 2018- p 122

<sup>(3)</sup>Ahmad Abu Al-Wafa - Mediator in the Law of International Organizations - Egypt - Dar Al-Nahda Al-Arabia - 2005 - p. 121.

- Highlighting criminal protection at the national level by clarifying the position of the Iraqi legislator in the penal code No. 111 of 1969 in force.
- Highlighting criminal protection at the international level in terms of determining the criminal jurisdiction of the International Criminal Court in trying war crimes suspects when attacking United Nations and associated personnel.
- To identify shortcomings and defects in national legislation in the area of protection of United Nations and associated personnel.
- Highlighting international cooperation in the framework of combating crimes against United Nations and associated personnel when carrying out their work in various countries, including Iraq.

### **1-3- Research problem**

- There are deficiencies and deficiencies in the protection of United Nations and associated personnel, as there is no provision for the protection of the above-mentioned in the Iraqi Penal Code.
- Many countries have not joined the United Nations Protection of Personnel and Associated Personnel.
- Conflict of jurisdiction over the issue of the trial, especially when multinationals are involved in crimes against United Nations and associated personnel.

### **1-4- Research methodology**

An analytical research method will be adopted for the texts of the special agreement on the safety of United Nations and associated personnel, in addition to touching on texts of other agreements related to the subject of the research, and studying and analyzing some texts of the Iraqi Penal Code that provide protection to the above-mentioned.

## **2- (Victims) United Nations staff and associated personnel.**

### **2-1- The concept of United Nations staff (personnel)**

The dispute arose between jurists of international law regarding the issue of defining a specific concept for the employee of the United Nations, especially with the existence of similar concepts to this concept, and that dispute specifically revolved when the advisory opinion of the International Court of Justice was issued on 11 April 1949 regarding compensation due to the United Nations for damages That its employees are attached to while performing their duties, the aforementioned court has known to the international employee that (every employee, whether paid or unpaid, works permanently or not, is appointed by one of the organs of the international organization to practice or to assist in the exercise of one of the organization's functions, in short, everyone who operates the organization) <sup>(4)</sup>

Some jurists have argued that the above definition of the International Court of Justice did not define the international employee, but rather defined the employee with the international organization, which is a very broad definition that included the employee and the non-employee, because the international organization's use of some people to perform some work cannot be given the description of the international employee because the latter must It is permanently devoted to work for the goals of the organization with an international character and according to a legal status determined by the international organization and which shows the rights and duties of the employee<sup>(5)</sup>. The main element, according to the opinion above, is that the job is a quality (permanent - continuity) in international job work, because it is not possible to consider those with simple daily work (cleaning workers, postmen) for example from international employees, because they are subject to the law of the country to which they belong and that the organization operates The international organization or one of its specialized agencies on its region, and to this the jurist (Paul Reuter) goes to the definition of the international employee that he (the worker in the international organization who is linked to a special legal system that is not subject to a local law and practices a continuous and permanent international job and work)<sup>(6)</sup>.

As for the agreement on the safety of United Nations and associated personnel, it contains explicit texts in explaining the concept of United Nations personnel, as well as explaining the concept of the personnel associated with it. Article 1 of the agreement states that for the purposes of this agreement:

#### **(A) "United Nations personnel" means:**

##### **2-1-1- Persons used by the United Nations Secretary-General for a United Nations operation.**

We see that this paragraph includes the military personnel of the United Nations or what they called (blue hats owners) who are members of certain countries who are assigned to work under the authority and supervision of the United Nations, and they carry out the tasks of enhancing security, stability and safety by protecting individuals and property and protecting civilians and residents from dangers Many of them include the risks of environmental pollution and the

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<sup>(4)</sup><https://www.icj-cij.org/files/case-related/4/004-19490411-ADV-01-00-EN.pdf>

<sup>(5)</sup> Mofeed Shehab - page 148

<sup>(6)</sup>P. Rater. Institutions International, Paris, 1967, P 226.

conduct of peacekeeping operations by deploying United Nations international military observers in many regions of the world<sup>(7)</sup>.

As for the other category, they are the police of the United Nations, which performs one of the functions of the administration responsible for prevention, detection and investigation of the crime, as well as seeking to protect people and property and safety and protect public order in its place of work, and police officers are also seconded to the United Nations agencies from different countries to work under The umbrella of the United Nations and of both sexes to participate in peacekeeping in many places of the world. For example, the international police were deployed in South Sudan, the Republic of the Congo, Mali and others<sup>(8)</sup>.

Likewise, one of the tasks of the United Nations police is to protect the elections and investigate crimes and serious violations, sexual discrimination and transnational organized crime. As for the authority and legal basis for the work of the international police under the umbrella of the United Nations, it is a decision issued by the United Nations Security Council, which is part of the global coordination center that provides expertise International police work in cooperation with the United Nations established to combat criminal networks and to combat the main motives for crime<sup>(9)</sup>.

There is another category that extends protection from crimes according to what is mentioned in the agreement and these are called (the civil component) and they are international employees who work as consultants or volunteers contracting with the United Nations to do many works that promote human rights and through various means, including the media that helps To support peace operations and the rule of law, and within these employees there are special teams from the feminist component that seek to promote women's rights and prevent unequal conflict against them based on UN Security Council resolutions.

#### **2-1-2- Staff and other experts**

These persons are subject to protection against crimes as United Nations staff. They are originally United Nations staff or are experts dispatched within the United Nations missions or specialized agencies or within the International Atomic Energy Agency and work in an official capacity in a region of the world where an international mission of the United Nations is being undertaken. And, these consultants and workers on mission in the United Nations have become a prominent and important part of the organization's affiliations, and they have been working for long and continuous periods, or they may be short due to the diversity and breadth of the activities of the United Nations and its associated organs<sup>(10)</sup>.

Often a Security Council resolution is passed in appointing these experts, and their work is coordinated in the places where the United Nations operation is conducted through its main or subsidiary bodies with expert committees in the countries concerned when they are dispatched, such as the missions of experts of chemical weapons or weapons of mass destruction as they were This is in the special mission to verify the use of chemical weapons in the war between Iraq and Iran under Security Council Resolution 620 of 1998, as well as the wars that occurred after 1990.<sup>(11)</sup>

Sometimes these experts and employees are dispatched to the United Nations missions operating in some countries, and protection according to the agreement extends to the staff and experts working in the specialized agencies of the United Nations that were established with the emergence of the United Nations after the proposal of the Preparatory Committee for the San Francisco Conference, which established the United Nations as alternatives to the outcome

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(7)For example, the deployment of military forces in 1948 to monitor the implementation of the armistice agreement between Israel and the Arab countries. - See for more information on WWW (United Nations Peacekeeping Operations) website. [Pacekeeping.un.org](http://Pacekeeping.un.org)

(8)WWW. [Pacekeeping.un.org](http://Pacekeeping.un.org)

(9)For example, see UN Security Council Resolution 1325 on Women, Peace and Security on October 31, 2010

(10)Jehan Terzi - Review of contracts for consultants and individuals in the United Nations - Geneva - 2012 - Document JIU / REP / 2012/5 posted on [WWW.faw.org](http://WWW.faw.org)

(11)Waheguru Pal Singh And Ramesh Thakur, Arms Control After Iraq: Normative And Operational Challenges, United Nation University Press. 2006. P 89-90.

Also see- <https://www.un.org/securitycouncil/content/repertoire/missions-security-council-and-secretary-general#cat3>

International cooperation in many fields through specialized agencies in contemporary international life and represents the goal of its establishment.<sup>(12)</sup>

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<sup>(12)</sup>Article (57) of the Charter of the United Nations, which clarifies the concept of the mandate to form specialized agencies, is considered.

It must be noted that the relationship between the United Nations and the specialized agencies is one of coordination and not a relationship of dependency, because the latter retains its self and its independent will<sup>(13)</sup>. However, the joint framework with the United Nations made it within the framework of a unified protection for its staff and experts, in accordance with the Agreement on the Protection of United Nations and Associated Personnel of 1995.<sup>(14)</sup>

**2-2- Persons associated with the United Nations:**

1- Persons designated by a government or intergovernmental organization in agreement with the competent organ of the United Nations;

2- Persons employed by the Secretary-General of the United Nations, a specialized agency or the International Atomic Energy Agency,

3- Persons deployed by a humanitarian non-governmental organization or humanitarian agency under an agreement with the Secretary-General of the United Nations or with a specialized agency or with the International Atomic Energy Agency,

In order to carry out activities in support of the implementation of a mandate entrusted to a United Nations operation.

These persons mentioned above are assigned by a government or an inter-governmental organization in agreement with the competent organ of the United Nations in a specific area of the work of the United Nations or its specialized agencies or in one of its operations that aims to maintain international peace and security or to achieve a goal when there is an extraordinary risk It threatens the safety of individuals involved in a United Nations operation, provided that the presence of these persons associated with the United Nations is formal in the area of operations, and the concept of individuals associated with the United Nations also includes individuals who are also deployed by NGOs under Agreement with the Secretary-General of the United Nations or with a specialized agency of the United Nations to do a specific job, such as relief work because of some of the complexities facing the work of the United Nations or its specialized agencies.

It should be noted that some countries object to the inclusion of some non-governmental organizations within the name of (individuals associated with the United Nations) for many reasons, which may be security due to the association of those organizations and their funding bodies and the goals they seek to achieve, they may use the name of the United Nations to achieve what they want or may be those The reasons are administrative, organizational, due to the diversity of the activities of these organizations and the diversity of the nationality of their individuals. Therefore, the General Assembly of the United Nations addressed recommendations to the Secretary-General in its resolution No. 57/28 related to the Secretary-General preparing unified provisions and controls that are incorporated into the agreements concluded with NGOs. It notes that these organizations are individuals associated with the United Nations and within a process undertaken by the United Nations in a country, in addition to that the Secretary-General provides, based on the above decision, data for any country based on its request to conduct a United Nations operation and that information relates to the names of NGOs Operating on the territory of that country as individuals associated with the United Nations<sup>(15)</sup>.

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<sup>(13)</sup>Dr. Ahmed Abu Al-Wafa - United Nations Organization and Regional Specialized Organizations - Dar Al-Nahda - Egypt - 1997 - p. 140.

<sup>(14)</sup>It should be noted that these organizations are:

1- United Nations Educational, Scientific and Cultural Organization (UNESCO)

2- World Health Organization

3- The International Monetary Fund

4- Civil Aviation Organization

5- World Postal Union

6- International Telecommunication Union

7- The Atomic Energy Organization ... It is one of the most specialized agencies operating in many countries, especially countries that have industries related to nuclear programs such as Korea, Iran and others.

<sup>(15)</sup>Mahtosh H. Arsenjani - Convention on the Safety of United Nations and Associated Personnel - 2009 - Available at UN.org./law/avl

The question, according to the NGOs considered among the individuals associated with the United Nations, is how the provisions related to the crimes mentioned in Article (9) of the agreement are applied to them as a family victim, especially for example murders and kidnappings?

The answer to that is that the above texts were designed to protect employees in particular and not to organizations. However, any attack on a member of those NGOs represents an attack on them completely, while other images can be achieved through the crime of threatening the non-governmental organization or attacking its headquarters or The headquarters of its employees or attempting to commit one of the aforementioned Article nine crimes.

### **3- Justifications for criminal protection for United Nations and associated personnel:**

There are several justifications for providing protection to United Nations personnel and associated individuals against crimes committed against them, such as murder, kidnapping, threat, intimidation, or attempting one of the above-mentioned criminal acts. Among these are the following:

#### **3-1- - Activating the duty of the host countries to protect United Nations and associated personnel**

As many areas of operations witnessed an increase in the preparation of crimes against United Nations personnel during their provision of relief and humanitarian work, which prompted the General Assembly to stipulate in the agreement the need and obligate states to have a duty to ensure the safety and security of United Nations and associated personnel through the necessity of taking appropriate and appropriate measures So<sup>(16)</sup>. In particular, it must take appropriate steps to protect them from the crimes mentioned in Article (9) of the Convention when they are published in its region.

#### **3-2- Facilitating the work of the United Nations and associated personnel**

For the purpose of achieving the goals that the United Nations derives from its charter, it is necessary to provide adequate protection for its people performing its tasks and the need for there to be completed in that protection at the international and local levels, because in most cases these workplaces of these people are very dangerous, which may endanger their lives or Their freedom is at risk, and the duty to protect them lies primarily with the host country<sup>(17)</sup>. Because their exposure to attacks will hinder the provision of humanitarian aid to its civilian needs, and will negatively affect its continuity.<sup>(18)</sup>

#### **3-3- The necessity of punishing the crimes**

This is to prevent impunity for the perpetrators by imposing the necessary investigations with them by the competent authorities and bringing them to justice in accordance with national laws and based on international obligations, as the agreement obligated the states parties to cooperate with the United Nations and according to the need to implement this agreement, especially in any case the state is unable The hostess did not take any of the required actions.<sup>(19)</sup>

#### **4- Spatial scale to protect United Nations personnel (crime scenes)**

The operations of United Nations personnel and associated personnel are based on the principles of the Charter of the United Nations in the interest of the international community in the area of making and maintaining peace and security and other humanitarian operations, and this is done through carrying out activities related to humanitarian assistance and relief work established by the competent organ of the United Nations It is under the authority and control of the United Nations Organization, in addition to the application of the provisions of the Convention for the Protection of United Nations and Associated Personnel in the Territory of the State in whose Territory a special operation is carried out based on a special agreement with that country<sup>(20)</sup>.

In the context of defining the scope of work of the United Nations staff and for the purpose of preserving them and not falling under the ceiling of the criminal or civil responsibility of the law of the host country, the agreement obligated these employees and individuals of the United Nations to respect the laws and regulations of that country in exchange for that country's pledge to ensure their safety in its territory, and also requires employees The United Nations and the individuals associated with it must carry official identification documents to prove their identity as employees of the United Nations, such as carrying distinctive badges to them in the areas in which they work<sup>(21)</sup>.

<sup>(16)</sup>Olivie .Q- Gabrielle kirk- substantive and procedural aspects of international criminal law. 1-commentary. p337.

<sup>(17)</sup>United Nations General Assembly Resolution 71/129 considers December 8, 2016

<sup>(18)</sup>- General Assembly resolution above

<sup>(19)</sup> See paragraph (3 / b) of Article (7) of the agreement

<sup>(20)</sup>See Article (4) of the agreement

<sup>(21)</sup>Where Article (3) of the agreement stipulated: - 1 - The members of the military component and the members of the police component in any United Nations operation, as well as their vehicles, ships and planes, carry distinctive identification marks. Unless the Secretary-General of the United Nations decides otherwise, the identity of other individuals

It should be noted that some countries and during the negotiations on the conclusion of the agreement had objected that the United Nations staff and the individuals associated with them carry distinctive badges to them in their workplaces, because those badges and signs will make them an easy target for committing crimes against them or their headquarters or means of transportation<sup>(22)</sup>.

After several years passed, it was noted that the agreement did not provide sufficient protection. Therefore, at the 2005 World Summit, the idea of establishing an additional protocol to expand protection for United Nations and associated personnel was adopted and adopted on December 8, 2005 in accordance with General Assembly Resolution No. 42/60 of 2005. Where the protocol expanded the concept (operations) to include the following processes without declaring the existence of a risk as in the past, namely: -

A- Providing humanitarian or relief assistance in the field of peacebuilding

B- Providing humanitarian assistance in emergency situations

Thus, the protocol gave the Security Council and the General Assembly broader authority to determine the existence of the danger or not without stipulating that it be an unusual danger as before, and this leads to an increase in the activities of the United Nations and associated personnel<sup>(23)</sup>, which requires the host countries to be more eager to provide Criminal protection for them against the criminal crimes that hinder their work, threaten their lives and freedoms, and endanger their security.

#### **5- Types of crimes committed against United Nations and associated personnel**

The diversity and multiplicity of the specialized agencies of the United Nations and the diversity of their functions and duties carried out in various countries of the world, whether economic or social or a variety of relief, led to the problems they face are large in terms of the responsibilities incumbent on them, taking into consideration the nature of the societies in which they work and the customs and traditions The prevailing in it, noting the graphic line of the level of crime in these societies, as sometimes we find that the international character of international staff makes them an easy target for perpetrators, as they are exposed to dangerous types of crimes, and the former Secretary-General of the United Nations mentioned Ghali said, through one of his reports, that the United Nations personnel face grave dangers in their work that may threaten their lives and health while carrying out dangerous operations<sup>(24)</sup>.

In light of the increase in those crimes and threats, the General Assembly of the United Nations resorted to the issuance of important decisions related to the protection of international staff, including Resolution 57/28, which carried the title of the scope of legal protection under the Convention relating to the Safety of United Nations and Associated Personnel, as well as Resolution 57/155, which was titled Safety Humanitarian aid personnel, their security and protection of United Nations personnel, and in view of the increase in those crimes and attacks, especially the attack on the headquarters of the United Nations Mission in Iraq on August 19, 2003, the Security Council expressed its strong condemnation of all crimes against United Nations personnel, including accusations of For kidnapping and hostage-taking for the purpose of extortion, threats, and therefore have committed the Council of States parties that are working to activate the obligations of the need to criminalize acts and crimes contained in Article 9 within the penal laws and to prosecute and punish the perpetrators<sup>(25)</sup>.

The crimes to be criminalized under the national penal laws of the states parties as stated in Article (9) of the agreement are:

**5-1- Murder or kidnapping of a United Nations employee or associated personnel, or otherwise assaulting his person or freedom.**

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participating in the United Nations operation and the identity of the vehicles, ships and other aircraft participating in it shall be suitably established.

2- All United Nations personnel and all associated personnel shall carry appropriate identification documents.

<sup>(22)</sup> Arsenjani - a previous source

<sup>(23)</sup> Bruce Oswald and others - DOCUMENTS ON THE UN Peace operation - Oxford 1st pup- 2010 - p 188.

<sup>(24)</sup> The annual report of the work of the United Nations for the year 1995, marking the fiftieth anniversary of the founding of the United Nations, indicates that approximately (398) staff members were killed in peacekeeping missions for the period 1948-1990 and approximately (456) for the years 1991-1995.

<sup>(25)</sup> Security Council Resolution No. 1052 is considered in 2003.

The murders and kidnappings stipulated in paragraph (a) of Article IX of the above agreement are among the most serious crimes threatening human life or personal freedom. The crime of killing in them is one of the most serious crimes and it leads to the loss of the soul of the victim (United Nations employee or individuals associated with it) The absence of his life completely, and the crime of killing is carried out by several means, including shooting, or by using terrorist methods through the operations of detonating explosive devices targeting the movement of United Nations personnel, and in some cases, international staff are killed by cutting the head off the body by groups Terrorist<sup>(26)</sup>.

Regarding the murder, the Iraqi national legislator had been punished with life imprisonment or death and according to the circumstances of each crime in Articles 405 and 406 of the Iraqi Penal Code No. 111 of 1969 currently in force, but it is noted that the Iraqi legislator in the above law did not stipulate the issue of committing the crime against an international employee It belongs to the United Nations, but the text came in general without specifying the victim's status (the victim) and we call on the Iraqi legislator to amend the provisions of the penal code above to include the punishment for whoever commits the murder of the international employee in an explicit and private manner.

Likewise, the Iraqi legislator handled the crime of kidnapping and made it one of the crimes that violate human freedom in Articles (421- 422 and 423), whereby anyone who apprehends or confiscates a person is deprived of his liberty by any means, without an order from a competent authority, in cases other than those in which laws and regulations are permitted to do so. The above punishment was increased according to the CPA Order No. 31 / Section Two of September 13, 2003, whereby the punishment was increased to life imprisonment that does not end until the death of the victim.

The penalty shall be imprisonment for a period not exceeding 15 years in the following cases: -

A - If the action occurs from a person who has unlawfully dressed up as government employees or carried a mark A distinctive official status of them, or was generally described as a false or a false order to arrest or seize or Imprisonment, claiming that it was issued by a competent authority.

B - If the act is accompanied by a death threat or physical or psychological torture.

C - If the act occurred from two or more persons or from a person carrying an apparent weapon

D - If the period of arrest, detention, or deprivation of liberty exceeds (15) fifteen Days.

E - If the purpose of the act was to gain or assault the victim's offer or revenge From him or from others.

F - If the act occurred on an employee or a public service official while performing his job or service or Because of that.

It is noted on the above text that the Iraqi legislator did not explicitly state the case of kidnapping of United Nations and associated personnel within the provisions of the crime of kidnapping, which requires a legislative alignment between the International Convention on the Safety of United Nations and Associated Personnel, and the Iraqi Penal Code, and thus we call on the legislator Iraqi to explicitly criminalize their kidnapping crimes in the above article.

Then he expanded her protection in the Iraqi Anti-Terrorism Law No. (13) of 2005, whereby paragraph (8) of Article Two of the law stipulated the criminalization of kidnapping or restricting individuals 'freedoms or detaining them or financial extortion for purposes of a political, sectarian, national or religious nature or element. Nafi would threaten security, national unity and encourage terrorism, and did not stipulate the case of kidnapping of United Nations staff, but it can be inferred from the phrase (financial extortion) or (utilitarian component), given that the legislator had allocated the death penalty for this crime<sup>(27)</sup>.

**5-2- Violent assault crimes on the official workplaces of any United Nations employee or individual associated with him or his private residence, or means of transportation, may endanger his person or freedom.**

In these cases, we find that the international legislator had expanded criminal protection to include the official workplaces of United Nations and associated personnel, or their private residence or means of transportation, which might endanger their person or their freedom, and it is noted that the Iraqi legislator in the Iraqi Penal Code had criminalized any act It would insult international organizations operating in Iraq, including the United Nations, and stipulated in Article (227) that he shall be punished by imprisonment for a period not exceeding two years or by a fine not exceeding two hundred dinars, whoever insults in one of the public means a foreign country or an international

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(<sup>26</sup>)- At least 51 United Nations and associated personnel were killed in the line of duty during the course of 2015, according to the United Nations Staff Union's Standing Committee for the Security and Independence of the International Civil Service Among those killed were 27 peacekeepers, among them two police officers, and 24 civilians, including contractors, in deliberate attacks using improvised explosive devices, rocket and artillery fire, mortar rounds, landmines, grenades, suicide attacks, targeted assassinations and armed ambushes. <https://www.un.org/press/en/2016/org1624.doc.htm>.

(<sup>27</sup>) See Article (3) of the Iraqi Anti-Terrorism Law



organization with headquarters in Iraq Or insulted its president or representative to the world Restrict or insult its national flag or emblem whenever they are used in a manner that does not violate the laws of Iraq, then expand its protection in the Iraqi Anti-Terrorism Law No. (13) for the year 2005, whereby paragraph (6) of Article Two of the law stipulates the criminalization of assault with firearms and with a terrorist motive All embassies and diplomatic bodies in Iraq, as well as all Iraqi institutions, Arab and foreign institutions and companies, and international governmental and non-governmental organizations operating in Iraq according to a valid agreement, knowing that the legislator had allocated the death penalty for this crime.

**5-3- Threatening to commit any such attack with the aim of forcing a natural or legal person to do or refrain from doing something.**

In this picture, the perpetrator tries to obtain material or other moral benefits from threatening the United Nations staff or the individuals associated with it, to obtain directly from them the benefits or to pressure the governments of the countries they work on to meet their unlawful demands, until in some cases the matter These perpetrators seemed to attack the humanitarian aid that the United Nations is distributing in various countries with the intention of taking it.

**5-4- Attempting to commit any such attack**

**5-5- Criminalizing any act that constitutes participation in such a crime of assault**, or attempting to commit such assault, or organizing others, to commit such assault or ordering them to do so, and this case is intended by the international legislator in the Convention Concerning the safety of United Nations and associated personnel, the issue of participating in the crimes mentioned above or attempting to commit them by the shareholders in the crime, and the provisions of contributing to the crime are subject to the general provisions contained in the Iraqi Penal Code in Articles (47-51).

Note that the above agreement obligated each state party to make the crimes described in the above, crimes punishable by appropriate penalties taking into account the dangerous nature of these crimes.

**6- Judicial criminal jurisdiction to hear crimes committed against United Nations and associated personnel**

Given the diversity of the parties to the crime and their different nationalities, the question that arises in this regard is, for whom is the jurisdiction in the trial of the perpetrator against United Nations and associated personnel?

To answer this, we find that the United Nations Convention on the Safety of United Nations Personnel had obligated the States parties to take the necessary measures to establish jurisdiction in the trial of the perpetrators of the crimes mentioned in Article (9) of the Convention in cases that are:

- A) When the crime was committed in the territory of that country or on board a ship or aircraft registered in it
- (B) When was the person who committed the crime a national of that State?

Article 10 of the Convention also gives the State party to establish its jurisdiction over any of these crimes if it is committed:

- (A) By a stateless person who has his habitual residence in that State
- (B) or in relation to a national of that State
- (C) Or in an attempt to compel that State to do or abstain from doing something.

It is noted on the above cases that the Iraqi legislator in the applicable penal law had previously preceded the international agreement above and stipulated that the perpetrator of the crime in all cases mentioned in Article (10) above is subject to the Iraqi Penal Code based on the regional principle of Iraqi law.<sup>(28)</sup>

Thus, it is clear that the Iraqi legislator was compatible with the international legislator in the necessity of protecting the United Nations staff and the individuals associated with it, as the Iraqi criminal courts are competent to try the perpetrators of the crimes mentioned in Article (9) of the agreement in accordance with the provisions of the Penal Code and the Iraqi Anti-Terrorism Law, knowing that the paragraph (5) of Article (10) stipulates that this jurisdiction is confirmed by stipulating that this agreement does not prevent the exercise of any criminal jurisdiction in accordance with national law, and Article (12) of the agreement stipulates that each state party has information about the victim and on Crime rationale to refer that Information fully and urgently, in accordance with the conditions set forth in its national law, to the Secretary-General of the United Nations and the State or States concerned for the purpose of completing the trial of the perpetrator.

It is worth noting that the International Law Commission, which is one of five groups charged with drafting the Law of Crimes Against International Peace and Security in Humanitarian Affairs in 1996, some members objected to the inclusion of crimes against United Nations personnel under this classification, because the International Law Commission (ILC) had adopted Previously a decision to do so, and in the end the committee adopted a draft law that states that serious crimes against United Nations personnel are crimes against international peace and security if they are committed within a systematic or widespread attack against them during their humanitarian operations<sup>(29)</sup>, and therefore are subject to the jurisdiction of the International Criminal Court and Article 19 of the draft law and the reason for this is due to the seriousness of these crimes because they do not infect only victims, but also affect the

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<sup>(28)</sup>See Article (6) of the Iraqi Penal Code.

<sup>(29)</sup>Lyal S. Songa- The emerging system of international criminal law - development of codification and implementation- Kluwer law international publisher - London- Boston- 1997- P203.

international community in general because they are committed against persons representing the United Nations and the international community and threaten their lives at risk.<sup>(30)</sup>

The agreement has gone as far as possible to provide basic rules to ensure the prosecution of crimes. In Article (17), it stipulated the rules for fair treatment, as it stipulated that any person investigated or sued for any of the crimes mentioned in Article 9 should be guaranteed fair treatment and trial. Full protection of his rights at all stages of the investigation or trial.

Likewise, any person accused of one of the above crimes is entitled to:

(A) To contact without delay the closest competent representative of the country or states that that person is a national of, or the State, which for another reason is entitled to protect his rights, or if he is stateless, the State that is willing to protect the rights of that person, upon his request

(B) that the representative of that country or countries visit him at the investigation or trial stage.

Finally, after the end of the trial of the perpetrators of crimes against United Nations personnel, we find that Article 18 of the Convention obliged the State party in which the perpetrator was tried to notify the Secretary-General of the United Nations of the final outcome of the case, and he would transmit this information to other States parties.

## CONCLUSION

From the research it was found that the United Nations and associated personnel are carrying out humanitarian and relief work in many countries of the world that are experiencing certain disturbances, and their work is done in very dangerous conditions that require providing protection to them at the national level by criminalizing assault against them as well as at the international level so legislation has been legislated United Nations Convention on the Safety of United Nations and Associated Personnel of 1996 as well as the Additional Protocol of 2005. The agreement obliged member states to criminalize all acts mentioned in Article 9 thereof as crimes against United Nations and associated personnel. The agreement gave member states the right to try the perpetrators of those crimes in accordance with their regional jurisdiction, with the need to inform the Secretary-General of the United Nations accordingly. The agreement obliged states that undertake the procedures of investigation and prosecution of those accused of crimes against United Nations personnel to provide all requirements for fair treatment in the stages of investigation and trial of the accused. It emerged from the research that crimes committed against United Nations staff or associated individuals were considered war crimes, as well as crimes against humanity if they occurred while they were carrying out relief or humanitarian work and are therefore subject to the jurisdiction of the International Criminal Court. As for the Iraqi legislator, who ratified the above agreement, we find that: -

- He had criminalized all the crimes stipulated in Article 9 of the Convention in the current Penal Code No. 111 of 1969 as well as in the Iraqi Anti-Terrorism Law No. 13 of 2005, but he did not refer to the specific case of committing these crimes against United Nations employees, but rather included them as protection as anyone Ordinary, and we call on him to the need to refer and amend texts, especially when committing crimes against United Nations staff and to consider the punishment as severe and strict
- The texts contained in the Iraqi Penal Code correspond to what is stated in the agreement by defining the jurisdiction to consider crimes according to the principle of territoriality
- The Iraqi legislator punishes crimes committed against diplomatic missions and international organizations and their means of transportation, which is in accordance with the provisions of the agreement.

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<sup>(30)</sup>Ola Engdahl-International Humanitarians series protection of personal in peace operations:  
The role of safety convention against the Background of intranational law - MARTINUS  
NITHOFF Publishers - Boston- 2007 - P299.