

The Constitutional Embodiment for Protecting the Public Locations in the Iraqi Republic Constitution Operative for Year 2005

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Abstract

The Public areas in Iraq enjoyed important constitutional protection because these public areas are considered as Public National Possessions or that they are owned by the government but they are all used directly by all citizens or that they are considered as public utilities for the country.

Keywords: *constitution, public areas, Public National Possessions*

I. Introduction:

The Public areas in Iraq enjoyed important constitutional protection because these public areas are considered as Public National Possessions or that they are owned by the government but they are all used directly by all citizens or that they are considered as public utilities for the country.

Hence, rules and texts which organize these locations under the constitution were approved as is clear in Text of Article 27 from the Iraqi Constitution operative in Year 2005 which states as:

First: The Public monies are sanctity where protecting them is a duty for each citizen.

Second: Organizing through private rules preserves the country's possessions and the limits at which none of these monies are conceded. The constitutional legislator in Iraq made the protection of these public locations a must for the citizens; this is in addition that it is a commitment bourn by the country with all its organizations.

Importance of Research & Reasons for selecting it:

Since the Public Locations are allocated for Public Utility, then the citizens must be obliged to special rules which guarantee their protection from any legal or material aggression which can delay achieving its purpose.

This is what the constitutional legislator did in all the world countries where the constitutional legislator in almost every country in the world added a protection specific to these locations because they give benefits to

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the society as a whole and their protections and maintenance depends on the continuity of its benefits regularly for the service of the citizens as a whole.

Among them comes the Iraqi Constitutional Legislator who stated that it is necessary to enlist protecting and maintaining them under the constitution which applies to every citizen in the country. But, unfortunately, the Iraqi Constitutional Legislator didn't include a clear text related to protection of the Public Locations except in Article 27 which he implicitly considered the public locations included in the framework and within the public monies or the country's possessions.

Here comes the importance of this research where it is necessary to show the scope of the constitutional protection introduced by the Iraqi legislator over these locations through the constitutional text (previously stated) especially the public locations represent importance on economic, services, touristic & other arena.

Every individual, whether he was Iraqi or foreigner who carries another country's nationality, and then he has the right to use these locations and gets their services and uses. To enjoy these services and uses, this depends on the presence of effective protection which guarantees the continuity that these individuals (Citizens and Foreigners) enjoy through protecting them by the Iraqi legislator.

Despite the important status occupied by this subject, but not sufficient attention was given to it by the jurists and so we are exposed to some obstacles such as lack of specialized references and lack of articles and research on the internet.

We shall present the constitutional basis for the protection of Public Locations in the successive Iraqi constitutional texts ending with the protection in the operative Iraqi Constitution for Year 2005 and the basis of this protection in the ordinary Iraqi legislation.

The Research Objectives:

The constitution protection for the public locations remained absent as a scope for promoting them to the rank of the constitutional principle since the start of the first Iraqi constitution until placing the Iraqi Constitution Operative for year 2005 which came in this protection report but implicitly. This is something which is un-justifiable where there is the necessity to protect the public country's possessions and which include the public areas, is something which is agreed upon in all the legal systems for various world countries. Considering that the public possessions represent the main pillar for achieving the comprehensive development because what these possessions cause economic, social and cultural development which benefits the country and its citizens.

On this basis, some countries didn't suffice by texting on the protective mechanisms according to legislative and legislative legislations where it promoted them to the extent of constitutionalizing them.

This research aims at highlighting the texts of the constitutional and legislative Iraqi legislator which show its attention to protecting the public locations. Also, the research enriches the subject through some opinions and facts which reflect the public locations and the assaults occurring on them.

The Research Problem & it's Questionnaires:

The research problem is in the limitation of the constitutional and legislative texts which cover protecting the public locations where this protection exist only in one constitutional text which is text of Article 27 from the operative Iraqi constitution. Therefore, there is no clear vision for the Iraqi legislator concerning the concept of the public locations and protecting them. This subject forms a clear defect in a complete absence of the mechanisms and means for controlling and protecting the public areas from all their assaults.

This problem raises the following main question: what are the mechanisms and means monitored by the Iraqi legislator to protect the public locations and whether he adopted clearly some means for protecting them?

Here, comes a number of secondary questions which the research subject attempts to answer them such as:

- What is the concept of public locations as a source for constitutional and legislative protection?
- What are the types of the Public Locations?
- What are the used legal methods to protect the Public Locations?
- What the mechanisms and means of protection of Public Locations?

II. The Research Methodology:

To cover the whole subject and to answer the previously stated problem, the research will use the descriptive analytical research methodology. We used the legal and legislative constitutional texts to analyze these texts which cover protecting the public locations but not ignoring the historical methodology when needed.

The Research Scope & Limitations:

To reach the objective of this research which is knowing the constitutional perspective for protecting the public locations. W mainly concentrated on the Iraqi successive constitutions in particular the operative Iraqi constitution for Year 2005 and the ordinary criminal and civil ordinary legal legislations.

The Research Divisions:

Protection for the public locations in the Iraqi legislation rules takes the following two trends:

First Trend: In how to organize their use.

Second Trend: Represented in its legal protection by the constitutional and ordinary legislators – civil and criminal laws.

This necessitates that the scientific methodology of the research to discuss all this – after the introduction, research importance & objectives, its problem and questionnaires and the followed scientific methodology – according to the following plan:

Introductory Section

What is Protecting the Public Locations & Importance

Of its Constitutions

Chapter One: What is the Public Locations & their Types.

Chapter Two: The Importance of the constitution for protecting the Public Locations.

Section One

The Legal Organization for Using Public Locations

Chapter One: Using the Public Locations for Public Use.

Chapter Two: Using the Public Locations for Private Use.

Section Two

Chapter One: The Constitutional Protection of Public Locations.

Chapter Two: Legal Protection of Public Locations in the Ordinary legislation – Criminal & Civil.

First Division: The civil Protection.

Second Division: The Criminal Protection

Third Division: The Administrative Protection.

Epilogue: Includes research summary, its results and proposals.

List of References and Sources.

III. Introductory Section

What is Protecting the Public Locations & Importance

Of its Constitutions

The concept of Public Locations in the Iraqi Legislations doesn't differ from the legislations in other countries i.e. the constitutional or ordinary legislation. Protecting these locations and the strict implementation of its mechanisms depends largely on the constitution of this protection and stating it clearly in the inclusion of the legislators' constitutional and ordinary texts.

This introductory section identifies what the public locations and their types first; then followed by showing the importance of the constitution for protecting the public locations.

Chapter One

What are the Public Locations & their Types

There are buildings prepared by the government and allocated it for the Public Utility and for direct use by the public. These included rivers, roads, public gardens and other locations which attract the public in which they receive his educational services such as schools and universities and treatment services such as hospitals and the justice service such as courts etc...

Most locations available for the general public or to an unlimited part of it or locations through which granted public services general locations which are granted for public utility or according to the law or a decree from the concerned minister.

The marketing centers, swimming pools, public gardens and cinemas are public locations on which are applied the constitutional and legal protection as long their ownership and administration belongs to the country and are covered by the public legal system that is the law and justice regardless if the public location allocated for the direct public use or allocated to the public utility.

The texts of the Iraqi Constitutes and the legislations didn't include a clear definition or concept for the public locations. But some laws stated types for these locations or some of them. An example of this is what stated in the Iraqi smoking combating law Number 19 for Year 2012 where the second chapter titled "Prohibition of Smoking in the Public Locations, especially in Item Four which stated: "Smoking is Prohibited in the following Public Locations:

First: Inside the presidential institutes, ministries, educational, health, cultural institutes, airports, companies and factories in all the governorates.

Second: Theatres, cinemas, hotels, clubs, restaurants, meetings and ceremonies halls, work offices and commercial markets.

Third: The means of Public and Private Transport, air, sea and land in the internal and external journeys.

Fourth: All fuel stations.

It would have been better if the Iraqi Legislator defines directly the public location as what the Jordanian legislator did who identified the public location correctly. The Jordanian Legislator in Article Two from the amended Law Number 11 for Year 2017 for the Jordanian Public Health Law which defined the Public Location as:

The Public Location: This is the location prepared to receive everybody or a certain category of them such as hospitals and health centers. Schools, cinemas, theatres, public libraries, museums, government and non-government buildings, means of passengers transport. Arrivals and departures halls in the airports, boundary locations, playgrounds, closed sports organizations and any other location decided by the law so that this is published in the official newspaper.

The Legal definition of the Public Location matches its Linguistic Definition which covers all the previously stated types where it extended to include meanings of other terms related to it such as the extension, environment, space, buildings, cavity and others which comes under these meanings of the locations names.

It would have been better for legislations defines the Public Locations so that they don't define as previously did but it must place a general and comprehensive standard definition of the public locations in which the locations are not specified. This method is criticized from our point of view where the public locations can't be counted because we can't specify the locations which can be allocated for the Public utilities.

Types of Public Locations:

Based on what was previously defined for the Public Locations, it becomes clear for us that they are of one type but of several types. The definition of public locations are for the sake of example, there could be other locations previously considered as Public Locations.

Some of these locations are cultural, educational, educational, health and sports etc... We can place a standard for anything considered as public location without being confined within a certain definition. The objective from these public locations is the Public Utility for everybody or for a category of them where the services they provided were to the public as a whole. This means the possibility to reach the location, moving and adapting in it and using its services and enjoying it which means that it became available for everybody without any obstacles.

This standard leads to some locations getting out of the Public Locations Circle despite they are owned by the country and by the nation, but can't be used directly by the public such as the organizations and means of defense allocated for protecting the national soil such as military camps and security buildings.

Then, we can say the types of public locations are considered as the country possessions which are used for their nature and which are placed under the disposal of those who use them either directly or through considering them as one of the country's public utilities. These are used for common interest or utility according to a law where they are not sold or its ownership is not gained by passing time.

Notice that the Public Locations can be natural that is they are formed by nature and without any effort or human action such as sea coasts and roads etc...

These Public Locations can be industrial as the consequence of work and humanitarian efforts where these are the majority such as organizations and others including to what was stated when talking about the formation of public locations including the culture houses, public offices, various halls and sports playgrounds and means of transportation and public gardens.

Chapter Two

Importance of the constitution for protecting the Public Locations

The constitutionalist for protecting the Public Locations is an important subject where the country which improves and develop its economic, administrative, social, cultural, health and educational entity, can no longer perform the role of the security man i.e. performing the internal and external security and preserving the public system. The function of the modern country is to interfere in the life of the society and contributing in all the activities and the participation of the individuals in practicing their activities using various methods.

This necessitates protecting and preserving the Public Locations where the constitutionalist for this protection is the optimal mean which preserves the continuity of the public locations in serving the public interest.

The development took the direction towards making protecting the Public Locations promotes to the rank of the constitutional text. The Iraqi constitution took this trend where it stated that the legal protection is at the heart of previous constitutions reaching the current operative constitution for Year 2005 which will be presented later on.

The importance of constitutionalization for protecting the Public Locations is summarized as the constitution gains its importance in representing the general framework and the greater public rule performed by the legislation in every country where it is the highest law in the country. Hence, it must be respected and abandoning the laws which violate it. If this protection was included in the constitution texts, then it will be respected by both the individuals and by the ordinary legislator who has no right to issue laws which waste this protection.

Section One

Legal Organization for Using Public Locations

We previously stated that the Public Locations enjoy great importance for the individuals in terms of their right to benefit from it by equality between the beneficiaries where its use is free unless the law imposes taxes.

Allocation of the public locations for the public utility necessitates imposing that the individuals can use and benefit from them. This beneficiary is according to the legal actions which organize the relationship between the individuals and the country. In order to understand the use system of the national possessions, then we refer to the legislative and organizational texts on the one hand and to the publications and instructions on the other hand. This shows the management how to perform their detailed or technical tasks. This implies that the lowest legal rule submits to the highest legal rule.

The Public Locations are used in the following two forms:

First: General Use this occurs in case the individuals benefitted from it directly and used it in a way which is similar to the form which matches the utility prepared for it.

Second: Private Use: This happens when the management give license or permits certain individuals to utilize from a certain type of the Public Locations.

Chapter One

Use of Public Locations (Publicly or Collectively or Shared)

The Public Locations in the general use or collective use forms, are under the disposal of the audience without specifying the individuals of themselves as a general base where the public use them generally or collectively or shared and then they become available for everybody.

This means that the individuals use the Public Locations in a way which matches with the idea of Public Utility served by these locations as in the case of the person who uses one of the coasts for having tourism or using one of the traffic roads where this does not mean that using it prohibits others from using it.

The use of the Public Locations in this way by the audience is considered as protecting them where they feel that they own them and that they have to protect them so as these public locations fulfill the purpose they were prepared for. On the other hand, this use is characterized that it matches with the objectives of the public utility which match the Public Locations completely.

The public use of the Public Locations can be either direct or indirect. If the public can use the public locations in the scope of what was allocated to it directly then this use is considered as a direct general use. But

if the use of the public locations was through the services provided by a public utility, then this implies the indirect use.

The public use of the Public Locations must use the principle of equality in use where all citizens in the country equally enjoy the right of using the public locations. The equality principle is an important principle in the constitutions including the Iraqi Constitution.

But this does not mean that the administration is committed to implement the principle of absolute equality between all the users but the equality is between the users who abide the conditions, situation and positions where if the conditions varied or the positions changed then their situations differ in utilizing the public location.

Therefore, the equality between the individuals in the public use and to benefit from the public locations is a relative equality between those with similar conditions and of united positions. This rule is linked to the unity of the legal attitudes for the audience of users where some sect can be characterized over other sect because its individuals enjoy scientific or technical features which match with the targets of the public use or results in their characterized with a certain privilege such as allocating some public locations such as public libraries which are only allocated to those with certain high standard scientific certificates.

Then, all citizens become equal in the right of use in the scope of using the public locations and those placed under their disposals. All the citizens enjoy the right to enter especially in the buildings, public gardens, museums and artistic organizations and other public locations and the national possessions.

The principle of equality in the public use protect the public locations from the perspective of fulfilling the purpose it was prepared to do, where this is considered as protecting it especially if this accompanied with some other principles such as the principle of the free use of the public locations and the principle of freedom in utilizing them.

Chapter Two

Using Public Locations as Private or Individual Use

In contrast to using the public locations previously studied in chapter one of this research, there is another perspective approved by the law for that use, which covers using the public locations as private or individual use.

The private or individual use for the public locations is characterized by it is practiced by one individual or certain individuals who own some or part of the public locations and use them for their private use. This use is covered by an administrative license and necessitates paying fees to the country's treasure according to the conditions and situations approved by the law. This private use either takes the form of a license or takes a contractual nature.

The rules which govern this type of use for the public locations differ from the known rules when used as public use because the targets allocated to the public locations in case they were used privately, vary

according to the purpose they were allocated of; whereas the public use is covered by the freedom of use and utility and use where the special use of the public location is restricted with a previous license from the administration.

Section Two

Mechanisms of Legal Protection for Public Locations

Having explained what are the Public Locations, their types and the legal organization for using them, and then we had to cover the constitutional and legal guarantees adopted by the Iraqi Legislator as mechanisms for protecting these locations and which preserve and utilize them.

This Section identifies the mechanisms for this protection. This is covered in two Chapters where chapter one covers the constitutional protection of public locations. As for Chapter two, it covers the legal protection of public locations in the ordinary (Criminal and Civil) legislation as follows:

Chapter One

Constitutional Protection of Public Locations

The importance of the constitution is that it represents the general framework and the base on which id founded the legislation in every country. The constitution is considered as the top law in the country and therefore it must be respected which means the abundance of the laws which violate what is in the constitution.

Due to the importance of the Public Locations, they were given great attention from the Iraqi constitutional legislator in the successive constitutions ending with Year 2005 operative constitution where the country started to practice the economic, social, cultural and recreational activities which resulted in that most contemporary constitutions to allocate a chapter specific to the economic and social organization for the country. This organization contains the rules which organize completely the public monies in terms of their types, objectives and means for protecting them. These include the public locations and organizations it became familiar that the modern constitutions include within their texts, the principles which protect their monies and possessions because on which the country's economy is based.

This is a good transformation for the constitutions concerning protecting these locations where this protection remained absent as a scope for promoting these public locations to the rank of the constitutional principle as the remaining principles introduced by the constitutions. This can be explained as follows:

First: The Principal Iraqi Law (Year 1925 Constitution):

The Year 1925 Constitution is considered as the first constitution after the formation of the independent Iraqi country. This constitution was issued on 1/1/1925 where Article 93 from this constitution referred to the protection related to the Public Locations as they are considered as the country's monies and possession in general where Article 93 stated "The country's monies must not be sold or rented or disposed of in another way but only according to what stated in the law".

Also the texts of Articles (94, 95, 96) from this constitution pointed out to the public money and protecting and not giving a privilege or individuals to invest the natural country's resources and its public buildings only according to the law.

This is something ordinary because utilizing the public locations as they perform what they intended to do, necessitates the existence of special rules which guarantee protecting them from every legal or material assault which can delays achieving the purpose of their existence.

Second: The Constitutions Years: 1963, 1964 & 1968

With the military coups taking place in Iraq during these time intervals, then constitutions were issued in these years. The constitutional legislator in these constitutions concentrated on providing the constitutional protection for the public locations. Therefore, these public locations were protected completely by the Iraqi constitutions during this transitional period.

Notice that the Iraqi Legislator stated the provision of the constitutional protection in Year 1964 constitution whose Article (11) stated that: "The Public Monies are sacred and must be protected by each citizen as it is considered as a source for welfare to the nation anda force to the country.

The Year 1968 Constitution also included this protection in Article (16) which stated: "The Public Monies are Sacred and must be protected".

Third: The Temporary Iraqi Constitution for Year 1970

This constitution pointed clearly at protecting the public locations, this protection came in the frame of protecting the monies and public possessions where this was stated in Article (15): "The public monies and the possessions of the public sector special sacred. The country and all citizens have to maintain their security and any assault which might occur to them which is considered as a destruction in the core of the society and an aggression on it".

Fourth: The Operative Iraqi Constitution for Year 2005

The fixed pattern used and confirmed by all the previous Iraqi constitutions, came Year 2005 constitution to confirm this protection. This constitution assured the sacred of the public locations and forced all the citizens to main and protecting them. This was covered in Article (27) which stated the following:

First: The Public Monies are sacred and protecting them is a must for each individual.

Second: They are organized by the special rules law by preserving the country's possessions and managing them and conditions for disposing them and the limits at which we must not deplete these monies.

Two matters became clear from the above:

First Matter: The successive Iraqi constitutions introduced several text which confirm the sacred and protection of the public locations; and made compulsory for all citizens to protect them. The constitutional legislator also forced informing any assault which might occur to them.

Second Matter: The Operative Iraqi Constitution for Year 2005 didn't differentiate between the private and the public country's monies. The constitution saw the necessity that all the country's possessions must be public monies where the first Paragraph from Article (27) introduced the phrase (Public Monies). The second

paragraph from same article used the paragraph (Country's Monies). This means that the constitution started its new trend towards the doctrine considering that all the country's possessions as Public Monies.

Chapter Two

Legal Protection of Public Locations in the Ordinary (Criminal & Civil) Legislation

For the importance of the public locations which are the effective means in the hand of the management to achieve its objectives including the ambitions and hopes of the audience; hence the civil legislator added to them the required legal protection which takes the form of not disposing them and prohibiting constraining them. This necessitated organizing this with special rules which guarantee its protection from every material or legal assault which can delay achieving their purposes.

The punitive legislations in various countries confirmed imposing a protection for Public Locations which included penalty texts imposed on those who damage these public areas because they are owned by the citizens as a whole. Therefore, the penalty texts stated in the penalties laws for most countries are characterized with their strength compared to those texts which protect the locations in the special ownership for the individuals and private companies.

Then, the public locations in the Iraqi legislation enjoyed a double legal protection i.e. civil and criminal in addition to the administrative protection which is the responsibility of the administration with caring, preserving and maintenance when they are allocated to the public benefits regardless whether its method of use was directly by the audience or through allocated it for the service of a public utility.

The legal protection of public locations in the ordinary Iraqi legislation (Criminal & Civil) through three divisions:

First Section: For the civil protection; Second Section: For the Criminal Protection. Third Section: The Administrative Protection as follows:

First Division

The Civil Protection

The Iraqi Civil Legislator concentrated on protecting the public locations where the legislators in various countries imposed a protection for the public locations in the commercial and administrative laws which is originated from the civil law.

Therefore, the Iraqi legislator included the public monies in general including the possessions and public locations with a civil protection. This protection in many of the texts of the civil law used basic rules for protecting the public locations. These rules take the form of not disposing of them by selling or renting or reducing their values and prohibits using them a way which is outside the frame of law either by the country or by individuals and detaining them by prescription of retaining them.

Article (71) from the Iraqi Civil Law in its second paragraph stated "These monies must not be disposed of or owned by prescription".

This text produces the following three rules:

1) Prohibiting the Disposal in Public Areas: Based on this rule, it is prohibited to perform the civil disposals on the public areas which will result in ending their allocation to achieve the public utility such as selling or donation.

This rule is considered as a definite consequence for allocation of the public money using a public cheque for public utility where without it we can't benefit with public possessions. The management is prohibited from transferring the ownership of the public location to an individual or to one of the special law individuals. If the management does this, then the public location can be retrieved at any time because it is prohibited to dispose it. Hence, if the management desired to dispose of the public locations, then it has to first terminate its allocation of the public utility. This is done according to a law or decree where by completing the purpose for which those public locations were allocated for public utility. In this case, the public locations are transformed into locations and possessions which belong to the management where the management can dispose with them.

The prohibition rule does not apply to the behaviors which occur to public locations in the circle of Public Law where this transformation does not affect the general feature for the locations. This rule does not prohibit the possibility of the management agreement with one of the individuals on using the public location temporarily as a special use with a license or a contract as is the case in the public utilities commitment contract where in this case, the public location will always be protected. The management has always the right in withdrawing the license or cancelling the contract according to the needs of the public interest.

2) Prohibiting the Constraining on the Public Locations:

Extending the rule of prohibiting the disposal of the public locations, then the public locations must not be sold as the consequence of constraining them to satisfy the constrained debt on those locations because this violates the idea of allocating the public locations for public utility. Hence, constraining is prohibited on these public locations to guarantee paying back the debts. The consequence of this rule is prohibiting ordering any right in rem on the public locations and possessions such as mortgage, possession or right of distinction which results in delaying the path of the public utilities and their good performance of the services and saturating the public needs.

3) Not Permitting Gaining the Public Money by Prescription:

As an extension to the previous two rules, the Public Locations cannot be possessed by prescription and the rule of sticking is not valid to acquire its ownership. This rule is a very important mean for protecting the public locations from being taken by the individuals and building properties on them with no right at all.

Division One

The Criminal Protection

The criminal protection of the public locations in the Iraqi Criminal Legislation took an important part of its text even though it was scattered between the amended Iraqi Penalties Law Number 11 for Year 1969 and other legislations.

In the framework of this protection, the legislator criminalized the works which can prohibits the work of utilities and the public possessions or any person with public interest or distortion of the building prepared for the audience.

The Iraqi Criminal Legislator either in the text of the Iraqi Penalties Law or in other texts outside his range from other laws, introduced a very tough rule against anybody who intends to harm or destroys the public locations so as to achieve the required protection for them.

Among the texts stated in the amended Iraqi Penalties Law Number 111 for Year 1969 which adds a criminal protection on the special locations as follows:

A) What mentioned in Article (197) which states:

1) Penalized by death sentence or permanent imprisonment any individual who destroyed or demolished or permanently caused severe harms on public buildings or buildings allocated to the government interests or the public utilities or the societies which are legally considered of public utility or petrol installations or electromechanical stations or means of transport or bridges or dams or locations prepared for public meetings or any public monies which has a great importance in the national economy so as to overthrow the ruling regime decided by the constitution.

2) The penalty will be sentence to death if the criminal used explosions in committing his crime or if his crime resulted in the death of a person who was present in those locations.

3) The penalty will be life or temporary imprisonment if the crime took place during the time of disturbance or if intended to cause fear without the criminal intention was to overthrow the ruling regime which was selected by the constitution.

4) The penalty is by temporary imprisonment for any individual deliberately destroyed any of the things stated in Paragraph (1).

5) In all the cases, the criminal is sentenced to pay the value of the thing which he sabotaged or destroyed or caused harm to it.

B) Paragraph (11) from Article (444) from the Iraqi Penalties Law where this Article stated: "Sentenced by imprisonment for a period of not more seven years or by imprisonment on a theft in one of the following conditions"

These texts are clear and explicit in criminalizing the assault on the country's monies and public locations. This matter is considered in favor of the Iraqi Criminal Legislation.

The Iraqi Penalties Law realizes the reality of its expansion in the scope of criminalizing the actions which harm the public locations where it made assaulting these public locations among the dangerous crimes such as fire, sinking or causing severe harm to them.

For example, the Second Paragraph from Article (342) from the Iraqi Penalties Law stated: The penalty is life or temporary imprisonment if fire was ignited in one of the following shops" where Items (5, 7) stated some public locations such as "Railway Stations and any building occupied by official or semi-official office or a public institute of public utility.

The Iraqi Legislator prepared the criminal protection for the possessions and the public locations outside the scope of the penalties law. This occurred in many laws including:

The Iraqi terrorism combating law number (13) for Year 2005 where the Iraqi legislator stated in Article (2) of this law that the acts of sabotage, destruction and deliberate causing of harm with the buildings and public possessions or the public or private sector or the public utilities and the public locations prepared for public use or public meetings, are considered as terrorism actions.

The problem in intensifying the punishment on those who assault the possessions and the public locations as is clear from the previously-stated texts is that these monies and country's possessions are allocated for the utility and interest all individuals of the society. This necessitates the provision of the criminal protection by an amount which match their public functions in the society where assaulting them represents assaulting on the interests of each individual of the society individuals. There are other punishment laws which add criminal protection on the public locations and the saying that the Iraqi Criminal Legislator provided a protection to the public locations which match with the nature and important of the locations.

The Iraqi legislator gave instructions to certain institutes has specialize in protecting the country's possession and monies. Among these institutes is the Public Prosecution System where the Iraqi legislator made this protection within his targets. This is shown in text of the first paragraph from Article Two from the Iraqi Public Prosecution Law Number 49 for Year 2017 which stated: "This Law aims at the following:

First: Protecting the country's regime and its security and looking after the high interests for the nation and preserving the country's monies and the public sector".

The Iraqi Legislator took from the criminal reserves which helps on protecting the public possessions. He used actions and certain rules stated in the criminal courts assets law, as:

- As far the crimes on the public locations, each victim has to inform the concerned authority. If nobody does this then it is the responsibility of the Public Prosecutor who is responsible for preserving the country's monies and the public sector.
- Retaining the monies of the individuals who are interested in the crimes against the possessions and the public monies. The Iraqi Criminal Courts Assets permitted the investigation judge and to the court to place the retained the monies on the monies of the accused of performing a crime occurred on it.

What adds a more effective protection on the public areas is the development of the government organizations which are concerned with protecting these locations such as:

1) Ministry of Interior and Internal Security Forces: In reality the investigator in the Interior Ministry Law Number (11) for Year 1994 Amended by Law Number 20 for Year 2016. The investigator finds that this interior ministry achieves a group of tasks including: Protecting the people spirits and their freedom and public and private monies and guarantee its safety from any danger which threatens it. Based on law of duties of policemen in combating the crime Number 176 for Year 1980, the internal security forces specializes in preserving the regime and the internal security, and preventing committing crimes and follow up their committers, and arresting them and protecting the monies etc... This way, the interior ministry and the internal security forces specializes in combating all the crimes including assault crimes on the public locations.

2) The Public Constitution Regime whose the previously-sated law Number 49 for Year 2017, is responsible for achieving a protection to the country regime, its security and keeping the democracy and high interests to the nation and preserving the country's monies And contributing with the justice in the quick discovery of the criminal actions and working on the speed of settling the affairs

3) The Criminal Justice which consists of the serious crimes courts, offense courts, investigations courts, underage courts in addition to the cassation court. These courts are responsible for implementing the penalty laws rules within their responsibilities specified in the operative judicial organization law.

The criminal justice in various world countries is the effective mean to achieve the law sovereign and guarantee the justice and prohibiting assaulting the public freedoms and humanitarian rights in addition to protecting the country's private monies and the personal rights. Every country has a penalty policy which defines strategies, plans and programs which halts crimes and reinforce the criminal justice and preserving the public regime.

Division Three

The Managerial Protection

The Managerial Protection takes the form of a group of commitments imposed by the legislators on the management to organize and exploit the possessions and the public locations. There are two means for the managerial protection of the public locations:

First Method: Preserving and Maintenance:

The country must be committed to preserving and maintaining the public areas because the public locations are possessions allocated to the audience and hence they must be given all means which make audience using it optimally with no risk is involved to the users and others.

The Management job is to oblige everybody to respect the use rules without allowing any assault on the public location. The nature of the public locations makes them exposed to threats due to earthquakes or floods or winds and other natural features.

Most laws stated the duty of the management in managing these locations and to try very hard in preserving and protecting them. The law also forced the users or the beneficiaries from these locations to maintain and preserving them. In this context, the management legal and material means which enable them preserve and maintain the public locations. The management has the right to issue the organizational panels which aim at preserving the public locations from any harm which occur to them by the users.

While the management performs its duty in protecting the public locations, they can benefit from the material means to enable them to perform periodical maintenance to the public locations.

Second Method: Monitoring:

In most of the countries the legislator placed the Monitoring as one important mean which helps the management in protecting the Public Locations. Based on this monitoring, the management with its monitoring systems can monitor the good use of the Public Locations according to their nature and the purpose for its allocation.

IV. Epilogue

With the help and mercy by God, I managed to complete this summary research concerning the constitutional embodiment for the protection of the public locations; and through which appears the importance of the public locations and the role of the constitutional legislator in protecting them where the constitution placed the basis of the protection in the legislations and various laws. Here, I produce the results and benefits which I have reached. This includes some recommendations we want to present as follows:

First: Results:

The subject of this research enabled us to reach a group of results. The following points show these results:

- The successive Iraqi Constitutions contained texts which confirm the sacred and protection of the public locations and forced all the citizens to protect them. Hence, they are considered public monies where every citizen must not assault or concede or cause harm to them. The constitutional legislator confirmed that it is a must to inform about any assault occurs to these public locations.
- There is a constitutional mystery in the constitution and the Iraqi law concerning a clear and independent protection of the public locations. This necessitates a constitutional and legislative interference for the sake of introducing texts through which the public locations are protected.
- Protecting the public locations in the Iraqi Law, includes a complete protection of the public monies where we can't dispose or prescribe them based on what stated in Article (71) from the Iraqi Civil Law Number (40) for Year 1951.

- The criminal protection for the public locations in the Iraqi legislation in one articles in the operative constitution for Year 2005 and exist in various Articles from the penalties law with various forms which can either be clear or implied.

For this objective, preserving the public locations from being wasted or sabotage etc... necessitate that the Iraqi legislator issue a legislation specific to protection of these locations i.e. just similar to what the legislator issued a law to prohibit smoking in these public locations. Such legislation is better than what was already issued where the best what can be done by the required law, is to a significant increase in the penalty. There is no doubt that the Iraqi legislator adopted to issue a law specific to protecting the public locations which results in providing the protection required for them in such a way to match the socialist transformations witnesses in Iraq. This necessitates confirming on the importance of maintaining the public possessions as they are considered as the population money where overdoing this or misusing them is considered as a dangerous crime against the group and against the country.

Second: Recommendations:

There are a number of recommendations which we would like to present by the end of this research:

- We recommend the Iraqi legislator to issue a special legislation for protecting the public locations. This new legislation should unify the rules of the Legal-Constitutional, civil, criminal. Or at least the constitution should include clear texts which decide this protection clearly and with specific mechanisms so that the public locations term must be defined to eliminate any surrounding ambiguity. This coordinated theory prevents various forms of assaults on the sacred of the public locations so that they will be managed decently to be used always for the interest of the society.
- Imposing severe monitoring through the country regime to follow up the continuous safety and maintenance of the public locations together with taking all the actions which achieve their purpose of their existence.
- Encouraging the foundation of civil societies to protect the public locations and to make aware the Iraqi citizens and foreigners of the importance occupied by the public locations. Also, raising their attention through the means of media and encouraging the culture of informing about any assaults taking place on these locations by the individuals regardless of their origin.
- Attention given by the ministries and the country's organizations to the periodical maintenance of the possessions and the public locations which belongs to them.
- Promoting the moral, religious, ethical and national values in various means of media, education and the religious guidance in the formation of new generations to promote the awareness to preserve the public ownership, maintaining them and making them secured and standing firm against any violation of their sacred as they own by the nation and are a source of welfare and a strongfactor for the country.

Finally, the burden of protecting the public locations is not just the responsibility of the country but there must be a cooperation of efforts with the audience in this protection to achieve more effectiveness for these public locations.

V. Research Summary

Protecting the public locations is a sacred duty where the constitution placed its basis leaving to other laws and legislations mechanisms to protect them to keep them from any assault. This protection is important especially after the great development and the widespread of the country's functions.

This important development resulted in the promotion of the public locations to the rank of the text through declaration or implication in the constitution. The protection became a constitutional principle which is adopted by many legislations and contemporary constitutions.

This reflects the great importance performed by the public locations. This subject affected the ordinary legislation especially the criminal legislation which became clear in assuring in some of the laws materials which states the protection of the public locations because of the risk of assaulting them which implies assaulting on the principle of the country.

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