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Crimes of Child Abuse & the Position of Criminal Legislations

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Abstract

That any sexual violence against children or its permission constitutes a grave danger not only to children's well-being and future, indeed, the future of the world as a whole, and the victim will become Jan, as well as the scars of hatred they will carry across generations. One of the most delicate losses in a society is the collapse of its value system. This may lead to a moral vacuum in which local value systems lose control. It is therefore clear that more needs to be done if the world is to actually protect all children's rights Perhaps the most effective aspect of operationalizing the work for the protection of children's rights is the operationalization and implementation of laws at the national and international levels, particularly as it has not received sufficient attention, requiring the attention it deserves and in a manner that is binding on all individuals and Governments, while not neglecting the penal aspect and imposing it against anyone who violates any of the rights of the child, which has become a widespread phenomenon, it poses a grave danger in today's supposedly, particularly after the comprehensive adoption of the Convention on the Rights of the Child - be safer and safer for children, the seriousness of this phenomenon and its contradiction with national criminal rules have been. The international community, devoted to the protection of children's rights and the negative attitude of the international community, individuals, Governments and bodies towards putting an end to this phenomenon, is the basis for discussion in a study in which we seek to highlight the general framework for such violence in order to achieve the goal for which legal norms on the protection of children's rights have been established.

Keywords: Child Sexual, Criminal Confrontation, Crimes, Legislations, Penalties.

1. Introduction

International attention to children has begun within the framework of the League of Nations by promulgating the 1924 Geneva Declaration on the Rights of the Child and, more recently, 1989, the date of the adoption of the United Nations Convention on the Rights of the Child, which is a crucial milestone in the history of children's rights. The Convention has been greatly welcomed and ratified by most of the world's countries, including Iraq and Syria, and incorporated through the adaptation of national legislation to its recommendations and the establishment of children's institutions, despite Iraq's and Syria's major legal efforts to protect children, a significant proportion of children continue to be subjected to several forms of sexual violence, the fact that the child's status as a victim of this crime is officially recognized is strong evidence of the desire for reform to counter the phenomenon, which has become the most sensitive and bitter stigma in Iraqi and Syrian society. It should be noted here that sexual violence against children is a phenomenon that has a long past, but the history of interest in it is very short, as it has received considerable attention only in the

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past three decades in connection with the growing interest in children's rights, as children and their creators, the future is half of the present and all the future and the best capital that humankind is betting on today to fight for real development. Every day, countless children around the world are exposed to risks and violations that impede their development, prevent their capacity from being developed and are severely affected by armed conflicts in their countries, displacement and displacement, and force them to forcibly abandon their assets (Yahya, Egypt, 2006). Numerous acts established by international and national criminal law as criminal offences of gravity and flagrant violation of children's rights s rights and condemn States and individuals violating them for their international responsibility, as well as for their criminalization by national legislation. These grave acts have carried several images, some of which have been incorporated under international law and others have been criminalized by national legislation (Ahmed, Egypt, 1991).

2. Importance of Studying the Topic

To the foregoing, and to the desire to protect child victims of sexual violence J, The extent to which the national legal system recognizes a child's special injunctive protection that will strengthen his or her position within society because he or she is physically vulnerable and incomplete and thus facilitates the use of sexual violence crimes against the child without fear of failing to do so. In particular, the majority of cases of child abuse remain in the "black number" because of confidentiality and confidentiality. It is all the more important that consideration of this issue will make it possible to publicize and highlight the phenomenon in order to draw the attention of officials to its seriousness and degree of prevalence in order to explore ways to ensure criminal protection that would provide children with a safe life with health, psychological and social care, ensure security for their lives and physical integrity, and safeguard their symptoms and morals. The greatest importance of examining this subject remains the collection of texts Criminal law adopted to protect children from abuses and violations that may affect their rights, as well as to know the grounds on which Iraqi and Syrian legislators have based a criminal protection report for the child victim and to assess it protection ", which remains in large part debatable and debatable, In addition to trying to find out to what extent Iraqi and Syrian legislators were able, through these requirements, to realize the child's protection

3. Research Problem

Given the importance of the topic, the complexity of its ideas, and their connection to each other, an attempt to study it poses a major problem that can be crystallized as follows:

1. What aspects of criminal protection does the legal system provide for children who are victims of sexual violence?

In order to answer a problem of this magnitude, it is necessary to raise some sub-questions, which I will mention as follows:

- A. What is the concept, images and causes of sexual violence against children?
- B. To what extent were the legal texts in Iraq and Syria able to guarantee effective protection for children from this phenomenon?
- C. Have international agreements in this regard been included in the national legislation of both Iraq and Syria?

D. Is the legislation related to this crime consistent with international agreements?

4. Concept of Sexual Violence against Children

Violence against children is defined as "a characteristic of everything that results in extreme extremist and brutal force, a characteristic of what is aggressive, as an expression of utmost severity, a transgression through word and behaviour, reflecting the use of force." It is also defined as "the use of various kinds of psychological pressure on a child to control his or her social thoughts, behaviours and human principles and to limit his or her freedom of thought and behaviour." It is also defined as "some see it as a social phenomenon found in all societies and linked to social systems and that the environment plays an important role in the development of the hostile feeling of individuals (Taha, Riyadh,1999).

Freud defines violence as "the force that directly attacks others and their choice (individuals) or groups with the intention of controlling them through death or destruction, subjugation and defeat", he defines sexual violence as sexual conduct between two individuals or groups, one of whom is exploited to achieve and satisfy the other's sexual diaspora. This unlawful act is done in contravention of the child victim's wishes and without obtaining his or her consent, whether by deception, to persuade him or her to obtain a certain return or in an aggressive, exploitative and threatening manner. The assault can be one-off and repeated, causing harm and change in the child victim's behaviour and physical and psychological feeling. Sexual violence is the involvement and exploitation of a child under the age of 18 in sexual activity that is not fully absorbed and cannot give consent to it, since the offender's conduct against him is contrary to the laws, customs, traditions and customs of society) Zidane, Alexandria, 2007).

The Iraqi Constitution of 2005 in force defined childhood and the family, in the text of Article (29), as follows: (First: A. The family is the foundation of society, and the state preserves its entity and its religious, moral, and national values. B. The state guarantees the protection of motherhood, childhood, and old age, and takes care of the infants and youth, and provides for them appropriate conditions for the development of their talents and abilities. Second: Children have a right from their parents to raise, care and educate, and parents have a right over their children to respect and care, especially in cases of need, disability and old age. Third: The economic exploitation of children is prohibited in all respects, and the state takes measures to protect them. Fourth: It is prohibited All forms of violence and abuse in the family, school and society). With regard to the Iraqi Penal Code, article 66 of the Code stipulates that: "A juvenile who is over seven years of age and under 18 years of age, if the juvenile is under 15 years of age, he shall be considered a boy or if he has completed it and is under 18 years of age, he shall be considered a boy" (Abidin & Hamid, Egypt, 1985).

Definition of the child in international conventions: The Convention on the Rights of the Child is the first international document to be clearly and explicitly defined as a child. According to Article 1 of the Convention, "Every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier." Article 5 of the Code stipulates that a child in the field of protection and care provided for in this Act means "any person born alive and under 18 years of age, based on the child's birth certificate, civil status identity or other official document." International and regional conventions that referred to the definition of the child, notably the 1959 Declaration on the Rights of the Child and the United Nations Model Rules for the Administration of Juvenile Justice, known as the " (Beijing Rules) adopted

by the General Assembly in 1985 and United Nations General Assembly resolutions of 1985 on violence and the 1989 Convention on the Rights of the Child and resolutions of the Eighth Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana, 1990, UN Rules and Declaration on Children's Rights and Care in Islam s Rights ", 1990, and the Charter on the Rights of the Arab Child 1984. At the Arab regional level, several symposiums were held, the most important of which was the Fifth Congress of Criminal Law, held in Cairo (2018), April 1992, In addition to the work of the Fifth Conference of Arab States on Social Defence, held in Tunis from 23 to 28 July 1973, a number of recommendations on juvenile delinquency and the role of institutions in dealing with juvenile delinquency were issued. However, in the case of psychology and sociology, it is difficult to establish a comprehensive definition of the child in the language of sociology or psychology (Seliman, Alexandria, 2006).

5. Causes of Prevalence of Sexual Violence against Children

The prevalence of this crime is due to many different reasons, ranging from structural or systematic violations of children to individual and less organized violations. Each case involves one or more reasons' interaction with another cause.

- A. **Family:** The family is the nucleus of society and thus has the primary role in the child's development to be useful, responsible and productive and that hindering this may result in the child being subjected to sexual violence, Especially if the child's rights are not given importance within the family, the child can be counted merely as something and not as human beings, which exposes him to many pressures. and may prompt physical or psychological violence within the same family, whether by the father, mother or brothers, There is no law or social custom prohibiting parents from engaging in beatings or any form of physical violence in their own educational methods. The purpose of beatings here is not to strike with a view to discipline, but to physical violence, such as severe beatings, either by hand or using a particular instrument (Routledge, London, 1997).
- B. **Educational and Educational Vulnerability:** Although the school is an educational institution before it is an educational institution, some erroneous educational practices continue to be practised against the child (Primitive, London, 2011). At the top of these practices is severe beatings and harsh punishment, which may sometimes not be commensurate with the magnitude of the child's mistake or age, and this has an impact on the social, moral and educational level, as well as among the types of school violence - such as domestic violence -the use of insults, severe dismemberment and all forms of psychological violence. In addition, there is a distinction between students on the grounds that this belongs to a simple family and the other to a family with authority and influence. This is also classified as psychological violence against children and thus displaces and distances the child from the school environment and is a fertile environment for perpetrators when committing sexual violence against them (Report on the National Consultation on Child Prostitution –Nov, 18-20,1995, New Delhi).
- C. **Globalization:** Openness to advanced technology and the spread of satellite channels without censorship have effectively contributed to the growth of sexual violence. Globalization has also contributed to the spread of poverty, economic disparity, and inequality, especially in developing countries. As a result of the weakness of states' sovereignty over their territories, this crime has become widespread, especially with regard to the crime of exploitation and trafficking of children for the purpose of prostitution, for example. Also, as a result of reducing government spending on public health and education

development programs and plans, and paying attention to other luxury matters, this crime has exacerbated and expanded (Al-Adhimi, Baghdad, 2002). For example, food security has created many problems, as families can no longer survive and continue on a certain livelihood for a long time. Change in developing countries at the societal level has occurred rapidly as a result of rapid urbanization and the rush towards connection with the global economy. The pressures to which societies are exposed are diverse and complex, and children are among the groups most exposed to great harm as a result of the effects of poverty, exploitation and discrimination (I. L .O, Geneva, 1999).

- D. **Discrimination between Male and Female:** Long-standing discrimination against women results in women's lack of access to education or employment opportunities for those who qualify, thereby placing them in a position of no benefit to them and exposing them to sexual violence. This is evident in the societies where girls pay for prostitution (Nile, Cairo, 2001).
- E. **Lack of Seriousness of social and Human Rights Work:** some social and human rights bodies or associations focus on the information aspect and amplify their activities without focusing on the content of the work itself.
- F. **Drug Prevalence and Moral Crisis among Children:** Children may need money to spend on them. This does not mean that poverty is the root cause of this crime, because many poor families do not object their children to sexual violence but as a result of the child's drug use and therefore need funds to secure more drugs (Pierreview, Beirut, 1993).
- G. **Child Labour:** Education is compulsory at the primary levels of students in some countries of the world. However, diversion from education is recorded in some of them and to the labour market, especially in poor countries. Even if the child continues in school and does not drop out of school, he/she may go to work during the summer holidays in order to improve the family's financial situation. Some employers, traders and craftspeople prefer to employ children, as is known, for two main reasons: low pay and control. The motivation behind children's work, which is contrary to the Labour Code, may lead them to exploit them and commit sexual violence against them before (Morsi, Cairo, 2009).

6. Types of Crimes of Sexual Violence

Sexual violence against children constitutes a grave violation of children's rights and is a universal reality in all States of the world. But it has become a real phenomenon of concern, especially in recent times, in some countries, such as Iraq, Syria and Libya, which have become visible as a result of war, displacement, displacement, poverty and other causes. This calls for immediate remedy through the intervention of criminal legislators in most of the world's countries, including Syrian and Iraqi law, including, but not limited to, the criminalization of such acts, the protection of a range of rights and interests, the most important of which are: Protection of the right to sexual liberty of the woman. The perpetrator of such crimes coerces the victim or the victim of sexual behaviour to which her will has not been directed, thereby confiscating her sexual freedom and protecting the right to physical integrity and the mental and mental health of the woman (Shuwish, Mosul University, 1997). Protecting the family entity from collapse, protecting the offspring from mixing, and protecting the social entity from the scourge of moral corruption. The law prohibits any activity that takes the form of rape, sodomy, sexual harassment or sexual exploitation in prostitution or pornography (Al-Qalaji, Beirut, 1988).

Conclusion

First: Results

1. There is no comprehensive definition of sexual violence at the national and international levels.
2. Acts and images considered as crimes of sexual violence against children cannot be restricted by national legislation, although some of them are defined by international conventions or protocols to the Convention on the Rights of the Child, transnational crimes or ILO conventions, which are among the most serious crimes violating children's physical and moral rights.
3. Notes that there is an overlap between the concept of sexual exploitation of children and other concepts at the national as well as international level, which is sometimes difficult to distinguish from trafficking in children, sale of children and child prostitution.
4. There is confusion between crimes of morality and crimes of sexual exploitation against children.
5. International agreement on the determination of the child's age notwithstanding, the problem lies in some national legislation which allows children to have sex at the age of 18 years under the pretext of respecting children's rights and freedoms.
6. Noting that there has been an increase in the perpetration of this crime, especially after technological development and the expansion of the number of users of the Internet networks, which has become a fertile environment for perpetrators of sexual violence against children, especially in countries where wars, displacement and displacement have occurred, for example, in Iraq and Syria.

Second: Recommendations

1. We propose to the national legislature that the provisions of the conventions on sexual violence be incorporated into its legislation and into special laws to keep abreast of social, economic and technological developments and to fill gaps in their legislation and to be more deterrent to the commission of such crimes.
2. Raise religious, moral and educational awareness, publicize children's rights and duties, educate and combat the temptations of society, legalize and follow-up volunteerism, and create appropriate and beneficial means of recreation for them.
3. Develop regulations and legislation governing the way schools are dealt with and develop effective solutions for children's drop-out from school; In addition, to combat the phenomenon of child labour by the State and society.
4. Strengthen political freedoms to move away from political repressions that may appear in multiple negative forms, including sexual abuse against children.
5. Activating the role of governmental and non-governmental organizations and law colleges through educational and legal courses for the development of security personnel as well as judicial bodies on children's rights, so that they are suited to developments in particular with regard to the Internet by investigating and accessing users of pornographic sites and service providers in which children are sexually exploited and how to report such crimes.
6. To enhance the role of the media by raising public awareness and informing them of the means and dangers of the crime of sexual exploitation of children.
7. Criminalize such acts that constitute sexual violence, either by explicitly providing for such acts in national criminal laws, or by obliging Member States to amend or supplement their national legislation so as to permit the introduction of such acts into the punishable offence.
8. Cooperation among Contracting States in combating such crimes through legislative, administrative and technical measures, as well as the obligation to exchange relevant information and to apply the principle of mutual assistance between the judiciary and the police.
9. The obligation of States parties to the conventions on the suppression of crimes of sexual violence against children by prosecuting the perpetrator in their own courts or extraditing them to the States concerned.

10. Adequate material and moral compensation for the child victim, commensurate with the extent of damage suffered by the child victim as a result of the sexual violence committed.

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