

Crimes of Defamation by Social Media

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That crime is just a reflection of the society in which we live. There is nothing dangerous or criminal in the core of social networking sites, but it is important that this site is treated with respect .. given the risks that can be associated with its use. This fact, which was confirmed by many international organizations to combat crime, which alarmed that these sites have become a tool to commit crimes around the world, and not only the danger to the countries of the third world, but swept even Western countries that put strict controls and laws to ensure safe use The Internet in general and social networks in particular. These crimes range from crimes, assaults, kidnappings, threats, fraud, electronic theft, terrorist threats, recruitment to terrorist organizations, as well as defamation. Social networks have been transformed into a real world of physical and moral violence. This coincided with tremendous progress in the number of users in recent years. This led to the development of scientific and legal strategies to deal with communication sites before becoming a serious tool for crime. Including the development of many legal legislation or the amendment of existing ones to keep pace with technical progress and do not escape the perpetrators of the punishment of punishment, especially in the procedural area of investigation and follow-up perpetrators, as they often hide under the guise of pseudonyms. The study will show the role of laws in combating defamation crimes by social media, in Iraqi laws.

Key words: *Defamation, crime, punishment, social communication, Iraqi laws.*

Introduction

Crime is just a reflection of the society in which we live, and there is nothing serious or criminal at the heart of social media, but it is important that this site be treated with respect, given the risks that can be associated with its use. This fact, confirmed by many international anti-crime organizations, which sounded the alarm that these sites have become a tool for committing crimes around the world, is not limited to third world countries, but has swept even western countries that put strict controls and laws. These crimes include crimes, assault, kidnapping, threats, fraud, cyber theft, terrorist threats, recruitment of terrorist organizations, as well as defamation offences.

Social networks have turned into a real world of physical and moral violence, coinciding with a tremendous advance in the number of its users in recent years, which has led different countries to develop scientific and legal strategies to deal with communication sites, before they become a dangerous tool for crime. Many legal legislations sought or amended existing legislation to keep pace with the technical progress and do not go unpunished, especially in the procedural area of investigating and pursuing the perpetrators as they are often hidden under the guise of fictitious names. Our study will follow the comparative analytical legal approach by studying and analyzing legal texts and showing the legislative development introduced by developed countries in this field, and what can be applied in Iraq.

The Legal Nature of Social Networking Sites

The definition of social media is not limited to the statement of what it is, but necessarily goes to the statement of its nature legally, if the characteristic of interactive, free and easy to use is almost the most distinctive social networking site as a means (new media) and this is what made it available to all segments of society, both the poor and the rich, and this publicity and privacy at the same time, which the user enjoys in the social media community away from any surveillance whether a family or institutional or social surveillance was a tempting motive to commit abnormal or undesirable behaviors. Despite the many benefits of this site, there are many drawbacks that some are trying to adapt to implement bad or criminal goals and desires.

Therefore, there was an urgent need to create a comprehensive legal regulation of all aspects of modern media, because the difficulty of this issue lies in the special nature of the aspects to be regulated, particularly those relating to the fundamental rights and freedoms of individuals, and not to prejudice some of those. Rights such as personal freedoms, for example, in addition to the departure of social networking sites from the concept of the media institution, which is subject to local law, so the organization required by law must be comprehensive on the one hand and universal on the other, not regulated by law as regulated

by traditional means. For controlled media and censorship provisions, on the other hand, the possibility of prosecuting violators of rights and freedoms (AlKhiwy, 2014, p. 127).

The stable environment and the depth of experience that characterized traditional media have not yet been available to the new media, which has been characterized by modernity and the specialists have suffered a lot of trouble to reach professional, moral and legal frameworks or controls, especially in the countries and regions that have known this kind of media in a relatively recent period Compare it to the countries of the developed world where such things have been settled to complete the elements of the information society in it and even to start to what we might call the "knowledge society(Al Iban, 2011, p. 23).

Just as social media sites have been granted a wide range of freedom, this move has had a negative impact on the right to freedom itself, as well as other rights that have been violated by the bad practices of social media sites in general, especially since many of the acts that are carried out daily in its space have become the subject of violations of the rights of and many freedoms.

The countries had to put in place controls to limit the bad deeds and crimes committed under its originally unspecified titles, hence the problem began, as the rapid steps that were characterized by (revolutionary) of the world of information technology, which penetrated most aspects of life quickly A large cross-border of space and time, in different ways, forms and methods, and the ensuing great interaction by the public made it difficult to place them within specific legal and legislative frameworks governing this new type of information and the same speed with which it moves in the world of informatics.

Crimes committed in the space of social networking sites and like any crime committed through the Internet are unique in nature and their specificity is the result of the means used to commit them, namely the Internet, in addition to their reliance on information mainly, which made the specialists call it (Cyber-crime on this kind of crime). However, this designation is still lacking in precise definition. Criminal jurisprudence has made many attempts to define the information crime and these attempts have emerged many directions in order to define the information crime, from the corporal's section to two communities:

- **The First** a definition based on one criterion.
- **The Second:** definitions based on several criteria, but the most important of these trends are two directions, the first of which narrows its concept and the second is the trend that narrows the concept of information crime goes to limiting e- crime in cases that require a great deal of technical knowledge in committing them and that crimes Which lacks this degree of knowledge is ordinary crimes covered by the traditional penal texts, unlike the crimes for which this knowledge is available, they are the only ones that need special texts that are compatible with their nature, which is different from other traditional crimes

and the definitions provided by the supporters of this The trend is that information crime is (every illegal act that science in the technology of computers is largely necessary to commit it on the one hand and to pursue and achieve on the other) and in this direction also knew that it is any crime that is required to commit it to have knowledge of computer technology (Qura, 2005, p. 45).

Based on this trend, criminal acts committed through social media are not an information crime because it does not require a great deal of knowledge of computer technology and which falls within the traditional crimes and since the recognition of this opinion denies the important role of the computer in the formation of the computer in the formation of Crime also overlooks what it specialists seek to simplify electronic processes and their uses and make them available to as many users as possible for several reasons, including economic and service, so another trend has emerged that expands the concept of information crime and this trend has emerged as a result of Criticisms directed to the first trend where supporters of this trend go to expand the concept of information crime, considering that the mere participation of the computer in criminal activity should be described (computer crime) was easy to commit as a tool to commit the crime in addition to Cases related to unauthorized access to the victim's computer or data also extend to include physical attacks either on the computer itself or related equipment and the positions of the jurists supporting this trend varied according to their view to the degree to which the information crime can be extended the team goes From jurists to the definition of information crime as all criminal behavior carried out with the help of computers (Al-Shawabaka, 2009, p. 8). But the best definition that supporters of this trend of information crime has been mentioned is what the Belgian answer to the OECD questionnaire on the definition of information crime is based on (any act or omission of an attack on material or moral funds is direct or indirect. Indirectly about the intervention of information technology (Rasheed, 2004, p. 238).

In accordance with this latest trend, we can call many criminal acts committed within the social media space as information crimes in order to share the computer in the criminal activity of the act as a facilitator to commit the crime by using it as a tool in committing it and the criminal act does not It is required that the mother who is active in computer technology or computer technology. However, this advanced trend is taken upon by this expansion, which would paint the description of the information crime on actions that may not be the case just because the computer participates in criminal activity. Therefore, as a result of these criticisms, this has prompted the modern criminal policy to try to identify the characteristics of information crimes from other traditional crimes through their special legal nature, whether related to (the subjectivity of this crime) or to (privacy) The shop where he was assaulted in the commission of these crimes (Al-Halabi, 2011, p. 301). The subjective nature of the information crime is its independence and distinguishing it from other crimes, particularly traditional ones, with a set of characteristics, including (transgressing to the

borders, i.e. transnational, difficulty in detecting information crime) This is what we find in the characteristics of crimes committed by social media. As for the specificity of the shop where the assault is committed in these crimes, it is known that the concept of IT crimes has emerged and evolved and continues to evolve according to the development of technology and its uses, and that the presence of information technology in a crime is not proof of its nature and uses and that the presence of information technology in A crime is not evidence of its technical nature there are a lot of crimes that are replaced by the information system and yet it is excluded from the range of information crimes because given the information system itself we find it is not of a single nature it consists of material and non-material elements to allow The possibility that it was a shop of two different natures, one consisting of the physical and the intangible, which led to the failure to determine the exact concept of the place of information crime (Al-Mult, 2006, p. 28).

Despite the role played by the computer system to complete criminal activity in information crime, this leads to a difference in the place of crime according to the angle seen and the role played by this computer itself (Ibrahim, 2009, p. 89) and here it is necessary to differentiate between three solutions. First: The occurrence of crime on the physical components of the information system and this category of crimes is considered a traditional crime, considering that these components are the subject of assault and enjoy criminal protection according to the traditional texts. The second case is the occurrence of the crime using computer systems, in which case the computer is not the subject of the crime, but the offender uses the computer to commit the crime and according to some opinions here in the face of a traditional crime. The third case is that the crime occurs on the moral components of the information system and this case is achieved when the components of the computer are not material, represented by the information in all its forms of data and programs in the memory of the computer is the place of the attack was stolen, destroyed or falsified, which is the case in which Punitive texts are limited to adequate protection of information (Fadhil and Safu, 2017, p. 21).

Through this classification it is noted that most of the images of the crime committed in the space of social networking sites and the second case of it is determined the role of the computer in the crimes of social networking sites as the means by which the crime is committed and not the ocean or the environment in which the crime is committed in the sense that The computer in the crimes of social networking sites is not the same or the information stored in it is a place of crime (Mohammed and Saif, 2007,p 98), but is a tool used by the perpetrator to commit the crime, taking into account here that the place of crimes varies according to what is the behavior of the perpetrator, which constitutes The system of social media sites itself or accounts used and their data may be subject to attack, such as in the crimes of penetration or espionage, and therefore are here in the face of purely information crimes and not traditional crimes used in the commission of information technology.

Although there is an aspect of jurisprudence and legislation, it is considered that crimes that are facilitated by computers or committed by an information organization or electronic communication system do not need texts other than the traditional penal code to apply to them because they are in the origin of crimes that are purely traditional and do not differ. Except in terms of the means by which it is committed and since the nature of the crime does not change by the means by which it is committed, i.e. does not lead to a change in the description of the crime and thus change its legal nature (Jassim, 2016, p. 195), but there is another aspect that considers this type of crime to be the most important crimes related to Informatics and the most exciting of legal problems because these crimes generally consist of some of the traditional crimes committed by informatics, gaining within this framework new characteristics because of their association with the computer and the information system characterized from the traditional image of them and lead therefore To the difficulty of applying the texts to them, for example, the commission of terrorist crimes, crimes of forgery or moral crimes through an information system.

This difference of opinions and trends with regard to crimes that are facilitated by computers is only the result of the nature of the magnitude of the difference between the techniques produced and the crimes committed in question and the legislative provisions for which they are monitored to counter this phenomenon. The question is the extent to which existing and structured legislation for traditional crimes can apply to these new types of crimes and bad behaviour sought by social media. The analytical study of the various doctrinal and judicial trends showed the inadequacy of the prevailing traditional criminalization texts and their inability to be informed of these crimes and behaviours due to two basic legal facts:

- **The first** is related to the principle of legitimacy, which prohibits criminal accountability, unless there is a legal text, no crime and no punishment except in the text and when the provision for the criminalization of such acts, which are not covered by the existing texts, refrains from responsibility and achieves the shortcomings in combating such crimes and acts.
- **The second** relates to the question of measurement in the objective penal texts, which are present and not permissible, and that criminal right is almost limited to procedural texts whenever it is correct for the accused, and this leads to the failure to measure the patterns of crimes committed by means of an information system or through electronic means of communication and on The patterns of these crimes, in their traditional forms, may be contrary to the principle of narrow interpretation of the criminal text, which is contrary to the principle of doubt, which is interpreted in the interest of the accused (Al-Mult, 2006, p. 31). Therefore, the special nature of information crimes, including the crimes of social media, made them create the so-called crisis of the penal code, especially since the penal code does not develop as quickly as technology.

Therefore, we find that some legislation depends entirely on the provisions of the Penal Code, which some consider to be more expensive, ambiguous and general in its vocabulary, which made this vocabulary subject to interpretation according to what the investigating body sees without limits between what is permissible and what is not permissible because of the limited legislation that regulates Those acts committed in virtual space.

Other legislation has sought to pass laws that are applicable to sectarianism from crimes, including Algerian legislation, which considers any crime to be committed or facilitated by an information system or electronic communication system, and the Algerian legislature has passed a law to do so. The concept of information crime in Algerian legislation is no longer limited to acts in which the information organization is the subject of attack, but has been extended to include in addition to those acts that the information system is a means of. to commit it. The Iraqi legislator did not know the crimes of publishing and media or press crimes, but provided for the responsibility for the crimes of publishing in the Penal Code No. 111 of 1969, which was amended as well as provided for the public media only in article 19 of the Penal Code and that the legal articles concerning the criminalization of acts of publication and the media The violation of the law is scattered in many sections of the Iraqi penal code

It should be noted through the articles of the Iraqi Penal Code on publishing and media offences that it did not specify the media and the media exclusively, but left the door open to any media that wanted to communicate information to others and in the penal code its role is to deliver the criminal act to those who are not present. At the time of the crime, it was not limited to a specific and specific method, but any means of achieving the information element would be a circumstantial vessel to increase the punishment.

The Iraqi Penal Code does not value or importance in terms of criminalization of the means by which the crime can be investigated, and therefore there is no difference between the crime of publishing through print media (newspapers and publications), visual or audio media (satellite channels and radio) or electronic media (including Social networking sites) the fact that the means used in the attack is not one of the fundamental pillars of the crime and since the crimes of publishing and the media do not come out of the general origin of the crime as conduct resulting from the will of the sinful punishable by the law, it does not constitute a crime of a particular nature or entity that requires special provisions. The crimes of publishing are common law crimes and do not make the means of committing a new crime, the crimes of slander, insult or incitement do not change the nature of the means, all that there is that the corner of public is in some crimes of publicity an aggravating circumstance for the majority of crimes for which the street is punished is wrong because for certain considerations related to the gravity of the act or the result or the characteristic of the victim. Therefore, because social networking sites are a new image of the pictures (new media) as

shown earlier and lead to the dissemination of information and its delivery to others in a written, audio or visual multimedia form, it falls within the general concept of the media provided by the Iraqi Penal Code as in the section The last article (433/1) of the Iraqi Penal Code No. 111 of 1969 (amended) which stated. It is noted in this text that publishing in the media is not a crime in itself, but rather a severe circumstance for the increase of punishment, in order to increase the harm done to the victim and be a later stage on the formation of the crime.

The Legal Adaptation of Defamation through Social Media

Taking note of the subject of this research requires that we stand at the linguistic definition of defamation and then address the conventional definition of defamation in the first section and then look at defamation images in the second section.

Defamation Defines Language and Terminology

Defamation: spreading anything that offends a person with the intention of harming him, defaming him and exposing him to the public. We can say that the electronic publisher asks when using images, news or programs that are defamatory in nature or that lead to the disclosure of the privacy of individuals, which means that images, news or programs tend to damage the reputation of the person referred to by demeaning and detracting from the general thinking of people It's like he's revealing things about marriage and divorce that are part of private life. Whether or not the images, programs or news published by the publisher are defamatory, is a matter of many difficulties and complications because the language used by the electronic publisher may be interpreted by different viewers in many ways because they are sometimes unclear means or Inaccurate to communicate ideas from one viewer to another, the words themselves may be understood by certain scenes with certain meanings that differ from those understood by other scenes, and both concerned may differ from that intended by the electronic publisher, and the meaning of the facts contained in the publication is often related to circumstances Surrounding the publication, the facts may be understood in the light of certain circumstances in a different sense than in others, making those facts complex and unclear to say that they are defamatory at all times.

In some cases, there are special facts known only to a limited number of viewers who give the words mentioned in the publication special terms different from those understood by other viewers, and there is another difficulty in the content of some of the prevailing words or terms that bear interpretation or interpretation for more than one aspect. It is as if the electronic publisher used the term "private party" because the term may carry immoral content, and at the same time may mean another different meaning, such as saying that it is a "noisy party" or "a fun party" and so on (Abdul latif,2019, p. 29).

The method used by the publisher in the publication may have a role in determining the meaning of the facts contained in the publication, as it is useful to use it to distort the meaning of the words in order to counter them. In order to define the defamatory meanings of images, news and programs used by the electronic publisher, two types of meaning must be distinguished in defamation cases:

- The first is natural or normal meanings. or words, it is determined by the meaning in which the words are reasonably understood by ordinary viewers who use their general knowledge, their nature or their usual behavior in understanding them, for the judge may decide that meaning without limiting it to the literal meaning of the word, but rather It also takes into account the meaning that these words use through inference or conclusion. In order to be able to determine the usual or natural meaning of words that offend the complainant's reputation, we must take into account the words used by the publisher in the publication as a whole, we cannot choose a paragraph from the publication in which the words are defamatory if the other paragraphs This paragraph is highlighted in a way that removes the meaning claimed by the plaintiff and the question that arises here is how can a judge be able to decide on the natural meaning of the publication?

The judge can reach the appropriate decision about the natural meaning of the publication by saying that the viewers are different moods and characters, some of them are supernatural and others are unusually primitive, the judge must mediate these two limits and see what the most harmful meaning is. What the average person understands, where the two boundaries above are mediated, is one of the terms of the publication that is the subject of conflict. The usual person when they see an electronic post on social media may deduce certain things from what they have seen, and the courts should be well aware of that and take it into account when judging, and these conclusions reached by the average viewer himself may be part of the natural or normal meaning For words, but these words may have other meanings in addition to their natural or normal meanings and these special meanings cannot be inferred from the words themselves and are not based on the thinking of the ordinary viewer, but they relate to certain facts or circumstances known only to some viewers and is the second type Meaning, in which the phrase is apparently innocent but carries a meaning that harms the complainant's reputation or his privacy.

Words may be used not for their true meanings but for the effect they make in the souls, and if the wording in which it works, it increases its risk, especially if the words are smooth and absolute of restrictions so that the harmful or bad meaning is hidden in innocent words and in words that seem naïve or vague, but to strengthen Meaning or giving it the necessary depth to influence the hearts of the viewers or to evade responsibility, but for both purposes (Abraham,2016 p. 180).

Therefore, the words may not be defamatory on the face of it, but the implicit libel (insinuation) is sufficient to judge, but when the words are defamatory on the face of it, the claim of insinuation is no longer necessary, although this claim is still possible, as it gives greater power to defamation by highlighting the meaning. Not visible in words, which is defamatory from another. The electronic publisher resorts to this type of word when it uses adjectives and substitutions, namely referring to a person or object with adjectives and adjectives that define him without declaring it (Abraham, 2016, p. 186). The lesson of the intention of the electronic publisher of the publication, which is lined up by his words and revealed by his style, is not to cheat the words from the false paint in order to escape from the face of the judiciary. It can be said that our judiciary should have the power to interpret the content of the publication, which the complainant claims is defamatory, to reveal whether the content of the publication is characterized by this description, through the assurance of the judge's achievement to understand the reality of the case if it does not lead to the error in applying the law to the fact that are the subject of conflict. The plaintiff must base his claim on the content of the publication, which complains that he was reasonably understood by those who saw it, and the plaintiff must specify the exact content of the publication, which is not specifically in his claim, and cannot claim a verdict based on doubt or conjecture, even in cases where it is not. The publication's words and expressions are defamatory on the face of it, and the meaning that is implied must be clearly defined in the case and in certain terms.

Types of Defamation via Social Media

To defame through social media several criminal images, it may be the form of a crime of slander, insult, crime of divinity, or the crime of publishing and promoting false news, and the search of all these images needs an in-depth study of hundreds of pages and therefore we will limit ourselves to studying the two most common images, namely The crimes of slander and insult.

The Crime of Torture

Defamation is defined as "attributing a particular act, order or fact to another person, male or female, even if this attribution is in doubt, which can punish the projectile or despise it with the people of the society in which it lives, which results in the injury and honor of the projectile." Article 433/1 states: "Defamation is the attribution of a certain fact to others in one way of publicity, if it is correct to punish those who have been entrusted to him or to despise him with his compatriots."

The laws on the term libel have differed narrowly or broadly, and some narrow this term to be limited to the natural person only, and the enemies of what falls on the public authority and public bodies such as insult, and extended some of the circle to include, each claim of a

fact that would prejudice the honor and consideration of official bodies, as well as The laws differed in the verbal meaning of the act, some used the term libel such as the Iraqi, Egyptian, Sudanese and Moroccan penal code, and others used the term "tham" in Arabic language (which is in the language against praise) such as the Lebanese, Jordanian and Syrian penal code, and there are other laws that used synonyms Another term for libel is the Libyan Penal Code, which used the term defamation in article 437, thus influenced by the English Defamation Act of 1951 (Abdul Latif, 2019, p. 34).

- **Elements of Crime**

Defamation as any crime must apply to him one of the provisions of criminalization if it is done by a person who is eligible for criminal responsibility, this has differed the jurisprudence in determining the pillars of this crime, some of them went to the bilateral identification (material and moral) and some of them went to specify more than that and the fact that the definition of two or more There is no different in terms of the result, so it is not different in terms of the result, so it is the two definitions of the combination of the elements of attribution and the designation of the assigned fact and the public and the effect in the physical corner and then the moral corner, but who went to identify it more than one corner, made each element of the physical corner a corner in itself.

According to the definition of libel provided by article 433 of the Iraqi Penal Code, the crime of defamation must be carried out from the availability of the material and moral element, while publicity is included in the material pillar. Each crime consists of two pillars, one physical and the other moral, in addition to the legitimate pillar, if one of these pillars is non-existent crime and the act does not constitute a crime, so we will look at the physical and moral pillars with some brevity, the physical pillar of the crime of slander is the result of attribution and the subject of attribution and public That is understandable from the text of the article above.

- **Act of Attribution**

It means the ratio of the order to the person of the projectile as a matter of emphasis or is an expression of the idea or meaning of its content in relation to a person (Hassanin, 2006, p. 23), and the attribution for the crime of slander through satellite channels is to attribute a certain fact to others through the electronic publisher, all means and methods valid for expressing Opinions or ideas can be a means of attribution to others, but the legislation did not agree on the term attribution, the Iraqi, Jordanian and Egyptian legislators took the term attribution, while the French legislator adopted the news instead, and the truth is that the news is not attribution, because attribution benefits The ratio of the incident to others certainly while the news conveys the story about others, or to mention the news with the

possibility of his lack of credibility (Al-Musawi, 2010, p. 33), and nevertheless article (188) in its first and second paragraphs of the Jordanian Penal Code, it is understood that the news is a kind of attribution, because Reporting a particular person through the novel is attribution itself (Al-Musawi, 2010, p. 28). It is intended that the slanderous words broadcast by the perpetrator are transmitted from others or from others, because the transmission of writing that contains a crime and its dissemination is in the rule of law a new publication, and no one can escape criminal responsibility to invoke that writing or sayings were transmitted from another channel or any other media. Hassanein, 2006, p. 26).

- **The Subject of Attribution**

(incident) attribution to the offender of a certain incident, if it is correct to punish or despise the people of his homeland (Twalba, 1998,p. 69), and the fact is every positive, negative or moral incident that results in an infringement of honor or consideration and is not necessary until the incident has the status of recognition. The terms include all the characteristics specified to them, such as time, place, means, persons, etc., but it is sufficient to include a degree of realism that makes them seem likely to be authenticated (Al-Shwarabi, 1997, p. 4, and two conditions are required in the incident:

The first condition: the fact must be specific to determine the incident and to identify it is very important, because in this condition, slander is distinguished from insult, it is not enough to assign the perpetrator to others is outrageous, but it is necessary that the incident be specific and specific, because the incident, if it is not specific and specific, is not a spa, not slander, the example of slander is that one of them says to the other that you are a misgiving of money. What is in your custody and the example of the insult to say that you are embezzled, and the identification of the fact makes its ratification closer to the possibility and its impact on the honor of the victim is more severe (Al qadhy, 2012,447).

The second condition is that the incident must be punished or despised by the people of the country. This means that the fact that the victim is punished or despised by the people of his country if it is true, and the punishable fact is what the law makes a crime, whatever its gravity, and it is a crime, a misdemeanor, a complete misdemeanor or a mere attempt, but contempt is the feeling of people towards the person who has not been handed over his honor from Harm or the right to his moral consideration is all that devalues him, degrades his dignity or tarnishes his material reputation in his financial affairs or business relations, so that people are alienated from his treatment and distracted from his approach. And contempt is not a negative feeling, but it is a positive attitude based on contempt, disdain or disparagement or aversion, and this second type of harm to the person is the external effect that the projectile causes as a result of the nefarious attribution that requires punishment or contempt, if the external effect does not occur, there is no slander and who Then there is no

punishment (Twalba, 1998 p. 72). With regard to the person who is subjected to the projectile, it should be appointed, because the attribution punishable by the offences of consideration requires that it be addressed to one or several specific persons, and that the appointment should not be by name, but it is sufficient to identify the person otherwise, such as time, place, occupation and other features. The personality, and the fact that the person who is appointed is appointed, with whom there is no doubt about his personality, is a matter of fact to be decided by the court of the trial (Hassanein, 2006, p. 27). The law not only specified the victim as the natural person, but it is possible that the person who is the victim is a moral person in the sense that the electronic publisher as well as a perpetrator can be a victim in the crime of libel, and the best example of this is what the Beirut Court of Appeal, which hears the cases of publications, if you returned Elements of the offence of libel (slander) investigated in the face of the defendant and obliged to pay the amount of \$5,000 or the equivalent of the company " Third: Public: Public is the manifestation, the openness, the dissemination, the dissemination and publication, and in the penal laws several pictures, they come as a crime as in the public act, and come as a punishment as the publication of the sentence, as well as take the image of the corner in the crime, as it comes as a aggravating circumstance of the crime. Publicly in the crimes of slander, insult and insult in general and the crime of defamation in particular came to the example of countries and exclusively in other countries, for example in Iraq the legislator has adopted a method of publicity, thus keeping the French legislator in the French Press Law of 1881 in article (23) of it unlike The Jordanian legislator, who limited the methods of publicity only to what article (73) said, and thus the slander through social media applies to him the tightening of the crime of defamation in the penal code, and this is a welcome position for the Iraqi legislator and a critic of the Jordanian legislator who restricted the means of public and therefore does not apply its provisions to The crime of slander through satellite channels because it limits the means of public slander by which tossing, and some legislation, such as the Jordanian legislator, has adopted public as a pillar in the crime of defamation, if the crime is achieved publicly, the crime is achieved and without it has disappeared (Al-Ra'i, 2010, p. 25), in addition to that public in the media in The laws that restricted the methods of publicity have returned to defamation by publishing a normal slander, and this is the position of the Jordanian legislator, while the Iraqi legislator counted defamation by the media as an aggravating circumstance.

With regard to the moral element, which is the wrong will of the person and the intent to commit intentional crimes, it is stipulated that the perpetrator commits the crime of slander freely and willingly, and that the perpetrator broadcasts the incident of slander and knows that it is attributed to a person.

The science that must be available is the real science, not the supposed, possible or duty science, i.e. the perpetrator must know that these words undermine the honor and dignity of the victim, and his will to say these words or to publish them, which results in the result that

he is scorned by the people. Many (Al-Ra'i, 2010, p. 120), i.e. the will of the perpetrator must be directed to attributing the incident and to broadcasting it through the media (electronic publisher) and this is known as the intention of attribution or the intent to slander, if he is forced to mention the words of slander he has the intention, meaning that the will must be free from material pressures. Or moral.

Once the criminal intent is provided by the element of knowledge and will, and no longer means the motives that led the perpetrator to commit his crime, the motive may be retaliation against the victim, or the desire to harm him by undermining his reputation or consideration (Nmmor, 2011,357), and this article (38) of the Penal Code the Iraqi "does not count as the motive for committing the crime unless the law states otherwise."

One of the judicial applications for the crimes of defamation committed using social media, and the decision of the Baghdad Court of Appeal federal al-Rasafa (No.386 In 7-6-2016) stated: (It was found to be incorrect and contrary to the law, because the constant through the discharge record attached to the case that the accused (X) has accused the complainant By killing and paying bribes openly, this constitutes an offence of slander in accordance with the provisions of article 433 of the Penal Code, and therefore the evidence obtained on the facts of the case is sufficient to be convicted in accordance with the provision of article above).

In another decision, of the Baghdad Court of Appeal federal al-Rasafa (No.123 In 28-2-2016) which stated (it was found to be valid and in accordance with the law for the reasons on which it was based on the fact that the evidence obtained from the facts of the case is not sufficient to convict in accordance with article 433/1 penalties in order to deny the accused the charges against him, moreover, it was not possible to prove the return of the web page to him by technical means according to Technical expert rating...)).

In another decision of the same court(No.132 In 28-2-2016), which stated (he found it correct and in accordance with the law because the evidence obtained from the facts of the case is not sufficient to convict because the accused and by virtue of his work as a journalist republished the news and that this does not constitute a crime because he is the one who attributed the incident to the complainant and the publication of the news before him came without adding or commenting on the decision to release him is therefore valid and in accordance with the law...)). In a fourth decision(No.498 In 13-7-2016), he found that he was correct and in accordance with the provisions of the law, because the evidence obtained from the facts of the case is not sufficient to convict the accused (A.A.M.) in accordance with the provisions of article 435 penalties in order to deny the accused the charge assigned to her as well as the report of the elected judicial expert, which includes that the statements The incoming cases do not constitute an abuse of the complainant and are contained in private correspondence within the organization.)

Crime of the Insult

Article 434 of the Iraqi Penal Code defined the reasoning as "the reason is the one that throws others into what offends their honor, considers them or injures their feelings, even if this does not include the attribution of a particular incident...) If the Iraqi legislator adopted the word "insult", then the legislator in both Lebanon and Jordan adopted the term mug, which is a rebut of the word "insult."

It is noted from the definition of the attribution of honor and consideration are the two main elements in the crime of insult, so it is necessary to recognize the individuality of honor and consideration, honor is a set of conditions on which the literary center of the person depends, or it is the passion that is placed at the heart of the person and which takes away his respect for himself from If a person is attacked with integrity and integrity, it is a scratch of his honor, because it represents virtue, honesty and courage, and is of a personal nature related to the moral aspect (Fahmy, 2003, p. 226). Consideration is defined as the external appearance of honor, which is called the literary or social balance that an individual receives from his or her relationships with others, which means the appreciation that society gives to the person in the light of his or her functional and social status.

The Elements of the Crime of Insult

The crime of insult is no different from the crime of slander from the corners with little, so we will present to the pillars of this crime with some brevity, so that what has been mentioned is not returned. The crime of insult consists of the physical and moral pillars:

- **Physical Element**

The referee, the need for a more effective and effective approach to the development of the system is a key issue for the development of the system. As a thief or a forger... Etc., or assigned to him with derogatory and contemptuous phrases as if he were said to be a dog or an animal.

Also expressions of admiration for women and girls or commenting on the shape, body or clothing and showing the good ones without their consent is a spa because it touches the honor and consideration (Al-Daribi and Ismail, 2010, p. 277), and the physical corner of the ejection is not different from the insult except by attributing the fact, as in ejaculation is specific and specific while in The insult is achieved in any way issued by the perpetrator and offends the honor and consideration of the victim, so it can include slander and vice versa.

The crime of insult is achieved by the availability of three elements, namely that the activity that the perpetrator brings is a diamond of honor and consideration to the victim, and that this activity is directed to a particular person, and that it is carried out openly, including social media, which represents the means of publicity. The above means, and social media is one of the means of public, any insult is by any means of any of these means if the content of the publication is not restricted and can be seen by more than one person who has been available on the element of public, but if the publication is dedicated and is not seen only by the publisher does not check this If the element of publicity is available, then the act of insult sat on the requirement of publicity and is punishable and subject to legal accountability, and this was confirmed by the decision of the Baghdad Court of Appeal, the federal number 989/sanction/2014, which approved the decision of the Court of Misdemeanors of Publishing and Media, which includes the judgment of Convicted with a fine of 500,000 dinars and when not paying was held a small prison for three months, with the complainant given the right to review the civil courts to claim compensation for proving that the convict edited the words of the insult (complained) for attributing facts that, if correctly, punished The humiliation in its social and professional environment, therefore, decided to ratify the conviction, but the sentence imposed found it inappropriate and the act committed because the publication of phrases that were through the media is an aggravating circumstance with article 434 penalties and posting via social media (Facebook) is one of the media Because it is available to all and provides the element of publicity in the act in accordance with the provisions of article 19/3 penalties, therefore the punishment is not appropriate for the act and it is necessary to tighten it and impose it to the extent that it provides the element of reform and general deterrence

- **Moral Element**

The moral element of this crime is also no different from the moral element of the crime of libel, as the act of insult must involve the criminal intent, as it is the cornerstone of this crime, which is supposed to be the case for the judge who considers the complaint to prove its contrary through his investigations (Bakri, 2011, p. 59). It is worth mentioning the Iraqi legislator, he took article (30) of the Publications Law of 1968 (amended) by the statute of limitations projected to file criminal and civil lawsuits for the crimes of publishing and the media, the right is dropped within three months of the date of publication, and it is noted from the texts of these articles that the Iraqi legislation has adopted the statute of limitations. In the crimes stipulated exclusively by these laws, including defamation, it is noted that the laws of publishing and media in most countries have provided for obsolescence and therefore the responsibility of the electronic publisher is subject to statute of limitations, which means that the electronic publisher cannot be held accountable over the period (Just, 2017, p. 116), in which the Federal Court of Cassation ruled in its decision that (... After looking at the distinguished judgment, it was found that it is true that it is true that it is true that the

provisions of the law are approved because the news published on the website was dated 5/7/2012 and that the case was filed on 7/10/2012 and since article 30 of the Publications Law No. 206 of 1968 stipulated that is not permissible to prosecute the crimes The law does not require the release of three months after the date of publication, and since the said period has passed before the proceedings, the claim is contrary to what the law requires).

Conclusion

After we have completed our research on the criminal treatment of defamation crimes through social media, we have reached a number of conclusions and recommendations, perhaps the most important of which are the following :

1. On the adaptation of defamation crimes committed through social media, and whether it is an information crime or not we found that there is a difference of jurisprudence, according to the first trend of criminal acts committed through social media is not an information crime because it does not require a great deal of knowledge With the technology of computers and that are included in the traditional crimes, while another trend goes to the lesson of using an information medium, and therefore the mere use of any of these means turns the crime from a traditional crime to an information crime, this advanced trend is taken upon this expansion The computer may be a traditional place in certain crimes, such as computer theft, discs or magnetic discs. This has prompted modern criminal policy to attempt to identify the characteristics of information crimes from other traditional crimes through their special legal nature, whether related to the subjectivity of the crime or to the specificity of the shop where the perpetrator sought to commit such crimes.
2. We have noted that the Iraqi judiciary has applied the provisions of the Penal Code in relation to many defamation crimes committed through social media, and considered these means to be public.
3. We found that there is a legislative deficiency in some aspects of the penal code and the media laws in force to keep pace with the technical development, and therefore we called for speeding up the approval of the draft law on information crimes currently before the Iraqi Parliament, after overcoming the negatives indicated on it. Concerning the violation of some of its articles of human rights in privacy.

REFERENCES

- Abdul, L. Baraa, M. K. and lawyer, M. K. B. Daman, S. (2019). Criminal response to false news through the alternative media and its role in maintaining community peace. Research Submitted to the Second International Scientific Conference of the Faculty of Law of Tikrit University.
- Bakri, Y. B. (2011). Media crimes against juveniles. II, University Thought House, Alexandria."Arabic".
- Fahmy K. M. (2003). The journalist's civil responsibility for his journalistic work. New University Publishing House, Alexandria."Arabic".
- Ibrahim, K. M. (2010). Art of criminal investigation in cybercrime. University Thought House, Alexandria."Arabic".
- Zaher, R. (2003). Using social media sites in the arab world, education magazine. Issue 15, Amman Civil University."Arabic".
- Salem, R. A-M. (2010). Crimes of slander and insult through satellite channels. Al Sabah Publishing and Distribution Library, Baghdad."Arabic".
- Al-Labban, S. D. (2011). Interventions in alternative media and electronic publishing on the internet. Arab World House, Cairo."Arabic".
- Al-Shorabi, A. (1997). Crimes of the press and publishing, copyright protection law and censorship of works of art in the light of the judiciary and jurisprudence, i3, the founding of knowledge, Alexandria."Arabic".
- Hassanein, E. (2006), Crimes of assault on honor and considerations of sharia and law. Egyptian General Book Authority, Cairo."Arabic".
- Tawalba, A. H. (1998), The crime of defamation, II. The House of Culture, Aman."Arabic".
- Jassim K. A. (2016). Criminal responsibility for publishing and media offences in iraqi law. Publishing and Distributing the Al-Sabah Library, Baghdad, 1."Arabic".
- Nammour, M. S. (2011). Explaining the penal code - special section - crimes against persons, C1, I4, House of Culture, Oman."Arabic".
- Fadhil, M. Ezzat, A-S. Noufel, Ali. (2017). It crimes against public morality, study comparison. Sanhour Library, Baghdad."Arabic".
- Adel, M. (2017). Lectures in media and publishing laws. Dar Al-Sanhour, Baghdad."Arabic".
- Qura, N. M. F.(2005). Economic computer crimes. Al-Halabi Publications, Beirut."Arabic".
- Youssef, H. Y. (2011). International crimes of the internet. II, National Center for Legal Publications, Cairo."Arabic"