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Criminal responsibility for the spread of infectious diseases in accordance with Iraqi legislation COVID-19

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Abstract---Research on this subject is of great importance because it is an emerging topic on the one hand and the other hand. After all, this global epidemic has ravaged the world very quickly, which has led to the harvesting of millions of lives in various countries, and therefore the criminal responsibility lies with the injured person who has shown symptoms of the disease, but he did not comply with the instructions of health and safety by taking preventive measures and on the contrary, he is responsible for considering his criminal responsibility for spreading viruses and deliberately harming others as well as In the absence of legislative provisions on the transmission of infection, despite the seriousness of the epidemic and its consequences, the study examined what this pandemic is and what is the criminal responsibility for the transmission of coronavirus infection.

Keywords---global epidemic, disease, criminal responsibility

Introduction

In 2019, the world witnessed the emergence of a new virus, the so-called Covid-19, in Wuhan, China, and after a period of the outbreak in all countries of the world, it became a global epidemic, according to a report by the World Health Organization, which called it a pandemic, harvesting the lives of 1,000 people, a rapidly spreading virus as it moves between people through contact, prompting all countries to take measures, including Iraq, to take precautionary measures to counter the threat of this pandemic. Curfews travel bans, suspension of studies, bans on all activities, and closure of borders, as well as social and physical spacing and other preventive health measures, which led the governments of some countries to take strict measures further, considering that the deliberate transmission of infection from one person to another is a punishable crime, including Iraqi law. Therefore, the most important measure is to isolate the infected person to reduce his spread and stop harming those around him and at the same time save the patient himself because of its serious impact

on human health and his life and therefore on society in general, and the spread of viruses results in the emergence of many questions about the criminal responsibility of the transmission of virus Corona i.e. transmission of infection to others or failure to comply with the health measures imposed by the state to face this epidemic or beHe is infected, hiding, and starting his normal life, causing others to contract the virus and possibly death. Since criminal responsibility is one of the most important issues on which the punishment is based on the offender, it is not enough for a person to commit the act that makes up the crime so that punishment can be inflicted on him, but he must make a certain mistake through the person's conscious will because the availability of conscious conscious will is the basis for holding the person accountable for the act criminally

In this research, we will address the statement of criminal responsibility for the transmission of coronavirus infection, and we will be answering many questions that have been raised, many otherwise we are trying to untangle its ambiguities through this research.

The importance of the study lies in highlighting the role of legislation that it is supposed to play in the face of the serious and real threat of this sudden pandemic, which has so far threatened and threatened the lives of millions of people, especially since the experience has proved a clear deficit of health institutions and even advanced ones in the face of this serious disease, as well as the need to identify the concept and nature of this disease and the ways of its spread and means of prevention and to know the extent to which measures are taken to prevent its spread conform to international standards. for human rights as well as to know the responsibility resulting from the transmission of the disease, whether intentionally or wrongly.

The first requirement: Covid-19 definition

Virus Corona is a group of viruses that can infect animals and humans, a highly contagious disease, rapidly spreading from place to place, usually as deadly as a plague, attacking large numbers of humans and animals simultaneously, within one region or region. Chinese in 1919. The definition of infectious diseases is disorders caused by small organisms such as microorganisms (Viruses) funerary, or parasites. Many of the microorganisms live in or on our bodies, usually harmful, or beneficial, but under certain circumstances, some small organisms may cause diseases. The infection was defined as the entry, development, or reproduction of an infectious factor in human bodies or animals in a way that may pose a risk to public health.

The pandemic is a widespread epidemic that transcends international borders and affects a large number of people and affects the environment, livestock, crops, fish, trees, and humans. WHO has divided the pandemic cycle by classifying six phases, a virus that affects most animals, with few human transmissions, followed by the phase of human-to-human transmission from one individual to another and eventually turning into a pandemic with its global spread and weak capacity. To control it, a disease is not classified as a pandemic because of its high prevalence and killing of many individuals but must be contagious and can be transmitted from person to person, for example, cancer has caused the death of many but is not contagious or transmitted among individuals

The symptoms of the virus are high temperatures, fatigue, severe fatigue, dry cough, as well as other symptoms of pain, backaches, and in the body in general, loss of smell and taste sensitivity. Health precautions must be followed to avoid this serious disease and most importantly, the injured person should be completely removed from the ocean to avoid injury to others, to protect himself and others through quarantine or home, and to reverse this, and not to take the necessary precautions to expose others to injury. Here, the injured person knows that his exit and mixing will harm others, and this behavior is a crime in itself.

The second requirement: Crime Staff CoronaVirus Transmissi **Physical**

The physical pillar of the crime is defined as: it is external physical conduct, which is criminalized by law, and the Iraqi Penal Code No. 111 of 1969 defines that the physical pillar (criminal conduct by committing an act committed by law or refraining from acting ordered by law) and that the criminal conduct of the crime of transmission (COV) is an act of intentionally spreading and transmitting the disease knowingly and with certainty, but the harmful result of that crime is the death of the human being or permanent disability, as well as the relationship that This conduct and that result are linked, and the said law also stipulates that (anyone who has committed an act of intentionally committing an act that would spread a serious illness harmful to the lives of individuals shall be punished by imprisonment for a serious illness that is harmful to the lives of individuals, if the act results in the death of a human being or permanent disability, the perpetrator shall be punished with the prescribed punishment for the crime of beating leading to death or the crime of permanent disability).

First: - Behavior

For the crime of coronavirus transmission to be achieved, the offender must engage in behavior that may be positive, i.e. to take action, and maybe negative, which may be to refrain from taking action. Hence, the way this virus is transmitted is in more than one way or behavior:

1. It may spread through the air by breathing near people without prevention
- 2- It may be through contact because many infectious diseases can be transmitted through contact
3. The disease can also be transmitted through sexual contact with others while infected.
- 4- Spread the disease as well through blood by drawing blood and transferring it to others.
5. Furthermore, the spread of the disease by abstinence may be as if the person is mandated by his profession, for example, to fight a particular disease if he appears and refrains from doing so deliberately to spread the disease, and in this regard, the Iraqi law states: "The crime is intentional if the criminal intent of the perpetrator is available", as well as if the law or agreement imposes a duty on the person and refrains from performing it to cause a crime that directly arises from such abstinence."

It must be explained that the extent to which the attempt was carried out about this crime, and that Iraqi law stipulates that "anyone who has deliberately committed an act that would spread the Coronavirus harmful to the lives of individuals will be punishable by imprisonment, and that the initiation of this crime shall be achieved when the perpetrator is committed with criminal conduct

and is arrested or disappointed. (7)

Second: - The result

As for the criminal result, it is achieved in the event of the spread of the disease and this is held accountable by law, considering that the material element has been achieved through the infection of individuals with this virus and this is the first meaning of the criminal result, i.e. the crime has a material reality in the outside world and the other meaning is legal as a legal fact that it is an attack on a right or an interest protected by law, which is the right of individuals in society to enjoy health.

Third :The causal relationship

Any relationship between the behavior and the result i.e. there is a link between the behavior carried out by the perpetrator, who wanted him to spread the disease, and the spread of the disease indeed, which is the result, if it is not proven that there is a causal relationship between the act and the result, this leads to the absence of the physical pillar of the crime, so the spread of the disease if it occurs as a result of another reason and this reason is sufficient for the spread of the disease, the causal relationship between the act and the result is non-existent by law. If all elements of the physical pillar of the crime of the transmission of COV infection come together from the conduct and criminal outcome of the spread of the disease and the causal relationship between them, the physical pillar of the crime will be achieved. (8)

The moral

That is the availability of criminal intent, knowledge, and will, i.e. the knowledge of the offender that the act he is carrying out constitutes a crime by the law, as it affects the integrity of the victim's body and that his will is directed to achieve the criminal result of spreading the disease. Here there must be an investigative infection and a danger that exists and that the perpetrator has turned his will to infect others with this virus and spread it among the people deliberately, where he has criminal responsibility for the availability of criminal intent and therefore achieves the moral pillar. The Iraqi Penal Code stipulates in article 368 and article 397 that crimes harmful to health should be made a criminal act and punished by anyone who has committed a serious illness that harms public health and human safety.

Through the above text, it is clear that the legislator did not specify whether the person was HIV-positive or infected, but what is important is that he deliberately spread the disease, so the application of the provision to the availability of the moral pillar in the transmission of the CORONA virus is identical if the perpetrator knows that he is infected and wants to spread it among the people. (9)

Here it is necessary to state a case if the infected person does not know about his infection with the Coronavirus, i.e. he is not aware of his infection, he asks for a serious crime harmful to the lives of individuals. As far as I'm going to go. It does not matter whether the perpetrator committed the act as a result of negligence or care or failure to comply with the instructions and regulations issued by the health authorities concerned. (10)

Second research

Penalty for the transfer of the Covid-19

To issue a penalty for reducing co-virus infection, we will divide this research into two demands that we deal with in the first requirement, the punishment based on the Iraqi Penal Code, and in the second requirement, we will deal with the punishment in other laws for transmission of infection as follows:

The first requirement :Penalty for the crime of transporting the Corona virus in accordance with the Iraqi Penal Code

Article 1 of the Public Health Act No. 89 of 1981 defined health as "full health fitness, physically, mentally and socially, a right guaranteed by society to every citizen, and the state must provide the requirements for its enjoyment so that it can participate in the building of society and development."

Article 44 also defined transitional diseases as "transitional disease is the disease caused by an infectious agent or the toxins generated by it, which results from the transmission of that factor from the source to the host directly or indirectly".

The criminal scope is governed by two basic principles: the principle of legality (no crime or punishment except by text) the principle: (it is not permissible to measure criminal articles), and out of respect for these two principles, no penalty can be imposed or boiled over by the law, and several States have taken into account through international treaties, constitutions and internal laws the right to public health. About the punishment imposed by law according to the gravity of the act or crime committed, i.e. as a result of the perpetrator committing an act that causes harm to society, the Iraqi Penal Code limits the spread of diseases among citizens stipulates (anyone who has committed a serious disease harmful to the lives of individuals shall be sentenced to up to three years' imprisonment, which would spread a serious disease harmful to the lives of individuals. The perpetrator was punished by the punishment based on the crime of harm), through the text, it is clear that the legislator has made the punishment associated with the result that occurred if the result is the spread of the serious disease only without resulting in the death of a human being or permanent disability, the penalty is imprisonment for not more than three years, which means that the legislator set the upper ceiling below the minimum so that there is freedom for the judge to get the punishment if there is something wrong. See it. It also stipulates that a person shall be sentenced to 15 years' imprisonment or a fine of not more than 100 dinars for anyone who has caused a serious illness harmful to the lives of individuals. If the act results in the death of a human being or permanent disability, the perpetrator will be punished with a penalty of at least one year and a fine of at least 300 dinars. This is as evidenced by article (411) B.C.

Note that the number of fines was amended under the Law on the Amendment of Fines No. (6) of 2008, under which the fine became a misdemeanor (200001) 200,000 dinars and one and not more than one million dinars ... If the crime resulted in the death of three or more persons, the offender would be sentenced to at least three years' imprisonment, as established by article (411/3) of the Penal Code. But if the blindness of the crime of error in spreading the Coronavirus results in the infection of the victim blindly with permanent care, then the penalty is imprisonment for more than six years and a fine of more than 50 dinars. If they

include an article (416/1) of the Penal Code, the second paragraph of the article has increased the same penalty as the offender and made imprisonment not more than two years if the offense of error in the dissemination of coronavirus is a permanent impairment or the offense occurs because the offender has grossly violated the assets of his or her job or craft, if the offense falls under the influence of intoxicating or drugged or if the offender is unable to assist the person with coronavirus after causing the spread of the disease or abstaining from the disease. If the accidental spread of THE CORONA virus infects three people, the Iraqi legislator has adopted a set of deterrent instructions and controls as preventive measures to deal with infectious diseases that spread from time to time and have to follow them so that criminal accountability is imposed on those who violate them. (13)

The second requirement: Penalty for the crime of transporting the Corona virus in accordance with other laws

There is no doubt that the COVID-19 is a serious and uncontrolled disease and has become a very worrying and serious issue as a result of an increase in the number of infections and deaths worldwide, which has prompted states and international organizations around the world to move forward with the necessary measures to curb the spread of the epidemic, which has led countries and international organizations around the world to take action to curb the spread of the epidemic. Thousands have been harvested and continue to reap human lives. The authorities have all measures to prevent the spread of the disease and to do so: restrict the movement of citizens within areas where the disease is spreading, and they can also close public shops, cinemas, amusement parks, restaurants, etc., educational institutions, factories, public and private state departments, prevent the sale of food and beverages from one region to another, isolate and control the transport of animals, even if the minister of health assigns any medical and health professions and provide services to citizens in emergency situations, and all these measures are preventive measures aimed at In order to prevent the spread of the disease and in order to protect health security, the legislator provided for penal provisions in case of violation of the text of the law (14) also we find that the law against terrorism has shown that the crime of spreading virus corona if it is done with terrorist motives, the act is among the images that include the law and specifically (violence or threat sought to terrorize people or endanger their lives, freedoms and security) so that spreading the serious disease is no doubt to endanger the lives of people, so we see The appropriate punishment for an act committed by a terrorist motive shall be in accordance with the provisions of the Anti-Terrorism Act punishes anyone who commits as an actor or accomplice of any of the terrorist acts contained in article II and III of this Act, punishing the instigator, planner, financier and anyone who has been in the place of terrorists for the crimes contained in this law shall be punished by the original perpetrator. (15)

Conclusion

1. The spread of Covid-19 has led to adverse negative consequences, especially in the economic and psychological aspect
2. Studies have not found the truth about the Coronavirus as an emerging interpretation and therefore it is not possible to reach all the effects that may result from the transmission of Virus infection and how to reduce its spread

3- One of the characteristics of the virus is that it is cross-border, which makes it an effective weapon for the weak souls to transport virus from the stage of the disease to the epidemic

The punishment contained in the Iraqi Health Act is not sufficient and to deter -4 this because it is the provisions of punitive provisions specialized in the transmission of infection, the legislator had to reconsider the amount of the punishment.

Recommendations

1- Activating awareness campaigns regarding behaviors that constitute crimes that the perpetrator deserves punishment for, such as violating orders in the event of curfews, not committing to creating a shop, and preventing the establishment of gatherings, for example.

2- Some provisions of the Terrorism Act may be carried out if the offender's criminal intent to transfer the virus is proved, especially in the case of the act leaving a serious consequence of the death of several individuals or if it is established that the offender intended to threaten the lives of individuals.

3. The need to establish a special punishment for this type of crime is different from the general rules of crime.

4- Applying the strongest law to the intentionally injured person in the dissemination of the virus

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