

Protecting the Right to Privacy in Cybercrime Law (a comparative study between the UAE and Jordanian legislation)

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* Introduction

Privacy is related to the human personality, and in this regard, it finds a wide range of discretionary power for the individual person, so that it is necessary not to generalize looking at it, at a time when the generalization should be present as a right. The international legislator has been concerned with the issue of privacy as a natural result of the emergence of the information age, including the position of the Organization for Economic Cooperation and Development, which issued the Guide for the Protection of Individuals and the Transfer of Personal Data for the year 1980, as

well as the United Nations Organization that issued the guide on the technology of personal data files for the year 1990, despite the interest that he has shown. The comparative legislator is concerned with the issue of the right to privacy and its effective protection at the constitutional level. However, he did not make the topic of this right a field for definition in this context, and thus the matter was complicated in his definition of the judiciary and jurisprudence in comparative law, taking both of them from the facts of life as a basis for a process definition.

The private life of the individual is defined as the maintenance of the personal and family life of the individual away from exposure or surprise from others without his consent. Or the person who has security over his nakedness and privacy, he and his family, who are keen to be far from all forms and forms of interference by others, is equal to being from close relatives or from others who have absolutely no connection with them, whether inside or outside his home, and a certain amount of time is guaranteed He is free of himself in it, and he and his household act freely to the extent that he can respond to the assault on this freedom without the slightest responsibility, and assign others to observe that, otherwise he will be penalized.

* Research importance

1- The theoretical importance: The theoretical importance of the research is that it shows what the right to privacy is and its legal nature, as it shows the forms of the violation of the right to privacy in the UAE and Jordanian legislations, as it provides a comprehensive view of the criminalization and punishment rules. On the crime of violating the privacy of

individuals in the UAE and Jordanian legislation.

2- Scientific importance: The importance of the research in scientific terms is that it provides a comprehensive analysis of the legal articles related to the protection of the right to privacy in the UAE and Jordanian legislations, and it also shows the approach of the UAE and Jordanian legislators in the law of information technology crimes in providing legal protection for the right to privacy. It sheds light on some judicial applications in the United Arab Emirates regarding the right to privacy and provides a set of legal recommendations that contribute to solving the research problem.

* Research aims

The research seeks to achieve the following objectives:-

- 1- Explain what the right to privacy is.
- 2- Determining the forms of the crime of assaulting the right to privacy in the UAE and Jordanian legislation.
- 3- A statement of the penalties cited by both the UAE legislator and the Jordanian legislator for the crime of assaulting the right to privacy.
- 4- Explaining aspects of agreement and differences between the position of the

UAE and Jordanian legislators on protecting the right to privacy.

5- Make recommendations at the end of the research that contribute to bridging the legal loopholes - if any - with regard to protecting the right to privacy.

Search terms: Right to privacy: private life:-

* **Research Methodology**

Given the importance of the research topic, the descriptive approach was relied upon, by providing an accurate description of the research topic in terms of stating the definitions and theoretical literature on the topic, and the analytical approach through analyzing the texts of legal articles in the law on combating information technology crimes in the United Arab Emirates, and the provisions of the law to combat Information technology crimes in the Hashemite Kingdom of Jordan, and the comparative approach by comparing what was stated in the UAE law and what was stated in Jordanian law regarding the crime of violating the privacy of persons.

The first topic; What is the right to privacy and its legal nature

Privacy is one of the issues that enjoy legal protection, as it is an

existing constitutional right and it is a human right, so it is a subject of legal protection as the UAE and Jordanian legislators have allocated special legal protection for privacy, and in order for us to define the legal protection elements for right of privacy (private life), in the Emirati and Jordanian legislation, we must first set the definition of privacy and the legal nature, and accordingly this topic was divided into two requirements as follows:-

The first requirement defines the right to privacy

In this requirement, we shall explain the definition of privacy subject to legal protection as follows:-

First: the idiomatic definition

The multiplicity and development of modern means and their impact on prejudice to the privacy of individuals pushed the jurists and international conferences to find a clear meaning for the idea of private life. State authorities, and in fact, treating conferences and private jurisprudential writings in this regard reveals two trends.

The first trend: It is the direction that public law jurists deal with in their writings, and it is a direction that gives private life a broad meaning, as he

defined private life from the angle of prejudice to it saying: "Every person seriously violates the right of another person, that his affairs and affairs not reach The knowledge of others, and his image is not exposed to the public eye, shall be considered responsible before the aggressor".

The second trend: This trend gives private life a more narrow and restrictive meaning. "The narrow concept of private life is based on ideas, which are intimacy, tranquility, and secrecy, meaning that the right to private life means that no one has the right to invade the world of his secrets, and to leave him as a tranquility, to enjoy familiarity without being intrusive by others.

From the foregoing, it is clear that the broad terminological definition is the best and most comprehensive definition of privacy, since it is among all the aspects involved in privacy and considers it the same aspects of private life, and we believe that the broad definition is the definition that is consistent with the nature and importance of individuals' privacy.

Second: the legal definition

We will explain here the legal definition of right to privacy as mentioned in the Federal Decree-Law

No. (34) of 2021 On Countering Rumors and Cybercrimes and its definition in the Cybercrime Law in the Hashemite Kingdom of Jordan No. (17) of 2023, as follows:-

*** Definition of privacy in the UAE law**

First of all, it should be noted that the UAE legislator respected and took care of the private life of individuals, and this respect is represented in the provision to protect the right to private life of individuals in several federal laws, **the first of which is Federal Law by Decree No. (31) of 2021 Promulgating the Crimes and Penalties Law (Penal Code)**, and it's amendments, in Article (431), which states However :"A penalty of incarceration and a fine shall be imposed on anyone who violates the private or family life of individuals by committing any of the following acts in other than the cases as permitted by law or without the consent of the victim: Eavesdropping, recording or transmitting by any device of any kind whatsoever conversations made in a private place or by way of telephone or any other device.

Taking or transmitting by any device of any kind whatsoever a photo of a person in a private place. If such

acts as set forth in the preceding two cases during a meeting in front of those present at the meeting, the consent of such persons shall be presumed.

The same penalty shall apply if a person publishes, by any means of publicity, news, photos, or comments related to the private or family life secrets of individuals, even if they are true.

A penalty of incarceration for a period not exceeding (7) years and a fine shall be imposed on any public servant who commits one of the acts stated in this Article exploiting the authority of his job.

In all cases, it shall be ruled to confiscate the devices and other items that may have been used in the crime. It shall also be ruled to erase or destroy the recordings obtained”.

The second is Federal Law No. (5) of 1985 concerning the issuance of the civil transactions law of the United Arab Emirates, which stipulates in its Article No. (90) that: “Any person who suffers an unlawful infringement of any of the rights appurtenant to him as a person shall have the right to require that such infringement cease, together with compensation for any damage suffered by him.”

Thirdly, Article (44) of **Federal Decree-Law No. (34) of 2021 On Countering Rumors and Cybercrimes**, states that: Whoever uses an information network, an IS, or any ITE with the intention of invading the privacy or sanctity of private or familial life of someone without his consent in cases other than those authorized by law through committing any of the following actions shall be punished with imprisonment for at least (6) six months and/ or a fine of not less than (AED 150,000) one hundred fifty thousand dirhams or more than (AED 500,000) five hundred thousand dirhams:-

- 1- Eavesdropping, intercepting, recording, transmitting, broadcasting, or revealing conversations, communications or audio or visual materials.
- 2- Taking photos of third parties in any public or private place, or preparing, transferring, disclosing, copying or keeping electronic photos;
- 3- Publishing news, electronic photos, images, scenes, comments, data or information, even if it is true and genuine, with the intention of harming the person.
- 4- Taking, transmitting, or publishing photos of the injured, the dead, or the

victims of accidents or disasters without permission or consent of the parties concerned; and/ or

5- Tracking, monitoring, revealing, transmitting, disclosing, copying or keeping the geographic location data of third parties.

Moreover, whoever uses an IS or ITE to modify or process any record, photo or scene with the intention of defaming or insulting another person shall be punished with imprisonment for at least one year and/ or a fine of not less than (AED 250,000) two hundred fifty thousand dirhams or more than (AED 500,000) five hundred thousand dirhams.

From above mentioned texts, it becomes clear that the Emirati legislator did not define right to private life, and that the meaning of privacy is devoted to the connotation of (the private life of persons), leaving the definition to the precedents.

The articles did not specify the temporal scope of the private life of a person, meaning that it is difficult to determine when it starts and ends, and it is also difficult to distinguish between it and the public life of a person.

Some have defined private life as the social or family life or personal relationships of an individual¹, and secrecy and the meanings it carries that can be expressed in several words, including isolation, solitude, lack of interference by others, and other synonyms². For this reason, the concept of privacy was proportional.

Others have defined private life as “the secret sphere in which the individual has the authority to exclude any interference from others, or it is the right of a person to be left calm, i.e. to enjoy calmness, or it is the right to respect his own personality³.

Some have argued that private life is the family, personal, and internal

¹ Collins English Dictionary.

² Abdul Rahman Khalfi, The Right to Private Life in Algerian Punitive Legislation, National Criminal Journal, Volume Fifty-Four, Issue Three, November 2011, Page: 95.

³ Jean carbonnier, mentioned by Nasiri, Nour El-Din, “The Legal System of the Right to Private Life: A Study in Light of Moroccan and Comparative Legislation,” Journal of Jurisprudence and Law, 2013, Issue 9, pp.5-21, page: 8.

life of a person when he lives behind his closed door and has the right to protect it against interference⁴.

With reference to UAE jurisprudence, it is not clear to us that the court has defined a definition of right to private life or privacy, nor the features of the right to private life, as The Federal Supreme Court ruled in Appeal No. 156 of 2018 (penal) that: "... pursuant to Article 21 of the Decree. By Federal Law No. 5 of 2012 in the matter of combating information technology crimes, stipulated that "anyone who uses a computer network or an electronic information system shall be punished by imprisonment for a period of no less than six months and a fine not less than one hundred fifty thousand dirhams and not in excess of five hundred thousand dirhams or one of these two penalties. Or one of the means of information technology in attacking the privacy of a person in conditions other than those legally authorized by one of the following methods... (2) Taking pictures of others ... ", which indicates that the legislator

in this text intended and aimed to protect the private freedom of persons and non-aggression, while the legislator did not provide a definition of the privacy of the victim.

Considering the aforementioned, we can present a definition of the private life of individuals as: "The personal life of them, which is far from the right to be acquainted with it or known to others without the consent of the owners, which enables people to be safe from their sanctities and personal matters away from others.

The right to privacy is everything that relates to the individual and attached to him and the individual's ability not to divulge his information, pictures, and personal data and to retain all his privacy, this ability extends to all members of his family and everyone who concerns him and relates to his life, whether his emotional, professional, or health life, or his religious beliefs, or his personal opinions, his photos, his private conversations and correspondence, and

⁴ Martin, mentioned by Nasiri, Nour El-Din, "The Legal System of the Right to Private Life: A Study in Light of Moroccan and Comparative

Legislation," Journal of Jurisprudence and Law, 2013, Issue 9, pp.5-21, page: 8.

all the private matters that the individual does not want to show publicly to others⁵.

* Definition of privacy in Jordanian laws

The Jordanian legislator did mention and protect private life of individuals by many legislations, one of them is Cybercrimes law No. (17) of 2023, and pointed out briefly that it's: "what a person is keen to preserve and not show or conceal from the public", with reference to Article (20), which states: "a. Whoever uses an information network, information technology, information system, website, or social media platform to publish a recording, image, or video of what a person is keen to preserve and not show or conceal from the public with the intent of defamation, offense, or obtaining any benefit from that, even if he obtained such images photos, recordings, or videos legitimately shall be punished under complaint by imprisonment for a period of no less than three months and a fine of no less than (20000) twenty thousand Dinars and no more than (40000) forty thousand Dinars.

b. Whoever uses an information network, information technology, information system, website, or social media platform to perform installation, modification, or manipulation of a recording, image, scene, or video of what a person is keen to preserve and not show to the public with the intent of defamation, offense, or obtaining a benefit from that shall be punished by imprisonment for a period of no less than two years and a fine of no less than (25000) twenty five thousand Dinars and no more than (50000) fifty thousand Dinars".

By referring also to the Jordanian Penal Code, we find that the term "private life" was mentioned in Article (348) bis which stipulates that: "Whoever violates private life of others by eavesdropping on their hearing or sight by any means, including audio or video recording, or the use of binoculars, shall be punished, under complaint, with imprisonment for a period of no less than six months and a fine of two hundred dinars, the penalty is doubled in case of repetition.

⁵ Dr. Odeh Youssef Salman, Crimes against the Sanctity of Private Life that Occur Through Modern Information Technology Means, Journal

of Law, College of Law, Al-Mustansiriya University, Volume 16, Issue 30/29, 2018, Page: 4.

Regarding articles mentioned above, it is clear that the Jordanian legislator did not define private life directly in Cybercrimes law or the penal code, but rather than that it defined forms of violation of private life, which are specific conditions that we will explain in the second section of this research.

And through the comparison between Emirati and Jordanian legislations, it becomes clear that both legislators tended the same direction and did not define right to private life or privacy specifically in legislations and tended to leave this matter to the judiciary, although the Jordanian legislator in cybercrimes law 2023 was more specific with the phrase "private life", when stipulated the protection of what a person is keen to preserve and not show or hide from the public, While the Emirati legislator referred to the phrase private life itself, and at the end, "Private life" should be determined by the judge according to the circumstances and events of the case, and after all There is no doubt that both Emirati and Jordanian legislator was and still very keen to protect rights and freedoms, especially when it comes to right to private life, and to work to confront all the violations and threats to privacy entailed using

modern technology, although there is no specific definition to "private life".

With reference to all mentioned above, it becomes clear that jurisprudence with regard to the definition or right to private life or privacy was multiple and differed from one another, and it's associated with the withdrawal from the environment or surroundings, and it is very similar to the idea of solitude or isolation, others saw it as a person's right to be left alone.

In view of this difficulty and pluralism that faced legal jurisprudence in establishing a specific, comprehensive definition to right to private life, a broad aspect of jurisprudence has tended to leave this matter to the judiciary considering a set of foundations derived from the prevailing traditions, cultures, religious values, and the political system in force in each society.

In a way that ensures that a person has self-respect, which guarantees him peace, tranquility, and

security, free from others interfering in his privacy⁶.

From the above, it is clear from the definitions established for the right to private life that there are many discrepancies regarding the perception of the nature of this right. It is difficult to reach a criterion that is completely suitable for distinguishing between private life and public life, and we cannot be certain that there is a comprehensive, prohibitive definition.

And this is due - in our opinion - to the difference in the concept of the right to private life across time and place, as social, economic, cultural development, and customs and traditions prevailing in each society differ from other societies.

The second requirement is the legal nature of the right to privacy

Jurisprudence is divided in figuring out the legal nature of the right to private life between two trends. The first sees that this right is a type of property right, and therefore the person is considered the owner of his private

life. While the second trend sees this right as a personal right, we will review both as follows.

First: The right to privacy is a property right (Ownership)

This opinion holds that the right to private life is a property right, and therefore every violation of the sanctity of private life constitutes a violation of the right to property. The proponents of this opinion tend to say that a person is considered the owner of his private life and therefore it is not permissible to violate his privacy in any form⁷.

This trend clarifies that a person is considered the owner of the sanctity of his private life, and therefore it is not permissible for his privacy to be violated in any form, and he can behave in his private life as he wishes.

And if he considered the owner of his body, he has the right to use and exploit. He has the right to sell his appearance and change his features, such as dyeing his hair or shaving his beard.

⁶ Dr. Osama Abdullah Fayed - Criminal Protection of Private Life and Information Banks, a comparative study, Dar Al-Nahda Al-Arabia, second edition, 1992, p. 15.

⁷Aqleel Fadeelah, Legal protection of the right to privacy, research submitted for the degree of Doctor of Science in Private Law, Fraternity Mentouri University - Constantine, academic year 2011-2012, page: 100.

Therefore, it is considered an infringement on these authorities to photograph a person without his permission and publish his image, even if it is not done in bad faith⁸.

In support, English law, which does not recognize privacy as an independent right, resorts to other means, including assaulting the right to property.

Professor Derek Hemi says: "The right to private life is equivalent to the private property of every individual, indicating that it is essential property like a home and clothing."⁹

With regard to this trend, the right to private life, unless we consider it to be a property right, entails two things: the first is that the owner of the right has the authority to use and exploit, and the second is that any assault on the property right enables its owner to resort to judiciary proceedings, without the need to prove the harm he has suffered from the assault.

I can conclude that jurisprudence did not resort to defining private life or its nature, but rather

searched for a framework of protection for it by returning it to general rules found in civil law, which are the right to property, Frankly, we cannot say that a person owns his body, as a person has conditional authority over his body and organs, just as he has the right in acting in nature, but human behavior is limited within certain controls.

But the content of the right to life is that a person should be left alone, without anyone violating his private life, which he does not reveal to others. It would have been more appropriate if the legal nature of the right to private life had been defined as a new concept or right, which entails the right to maintain private life without any interference, and this may include photographing, eavesdropping, publishing news, or attacking his private life by any means.

Second: The right to privacy is a personal right

The right to privacy is considered one of personality rights. Personality rights are rights that individuals have over their name,

⁸ Dr. Muhammadi Bakr al-Din, The Legal Nature of the Right to the Sanctity of Private Life, Journal of Legal and Political Research, Issue 6, June 2016, page 97.

⁹ Ali Ahmed Abdel Zoghbi, The Right to Privacy in Criminal Law, A Comparative Study, Lebanon, Modern Book Foundation, first edition 2006, page 13.

image, reputation, likeness or other unequivocal aspects of their identity, as well as information connected with them. If an unauthorized third party seeks to benefit commercially from such reputation or information, a case may be made for rights violation¹⁰.

The right to privacy is one of the constitutional rights stipulated in the constitutions of countries. It is also one of the human rights stipulated in international conventions. We will explain in this requirement the legal nature of the right to privacy as follows:-

First: The right to privacy is a constitutional right

I will explain the constitution's position in the United Arab Emirates and the Jordanian constitution's position on the right to privacy as follows:-

*** The right to private life in the Emirati Constitution**

The right to private life is protected through the Emirati constitution by Article (15) which states: "The family is the basis of society, and it is based on religion, morals and patriotism, and the law

guarantees and protects its existence and protects it from deviation."

Article 27 of the UAE constitution also states: "The law determines crimes and penalties. There is no penalty for what was done or left before the law that provided for it was issued".

From these constitutional texts, it becomes clear that the Emirati legislator is within the protection of the private life of people and considers it one of the constitutional rights that enjoy legal protection, and this depends on the keenness of the United Arab Emirates to protect all human rights, including the right to privacy, and this was translated into Federal Decree-Law No. (34) of 2021 On Countering Rumors and Cybercrimes.

*** The right to privacy in the Constitution of the Hashemite Kingdom of Jordan**

Article (7) of the Constitution of the Hashemite Kingdom of Jordan states: "1- Personal freedom is inviolable. 2- Every violation of public rights and freedoms or the sanctity of the private life of Jordanians is a crime punishable by law".

¹⁰ Bismar Kaur, Gunjan Chauhan, Privacy and publicity: the two facets of personality rights,

Remfry & Sagar, Brands in the boardroom 2009, page 35.

From this constitution, it becomes clear that the sanctity of private life is one of the constitutional rights explicitly stipulated in the Jordanian constitution in its seventh article, and the Jordanian constitution guarantees the protection of private life from every attack through Jordanian laws, most notably the Jordanian Penal Code and Cybercrime Law No. (17) For the year 2015 and its amendments.

From this, through a comparison between the UAE constitution and the Jordanian constitution, we notice that they agree in considering the right to privacy as one of the constitutional rights that the legislator in both countries provided the necessary legal protection.

Second: The right to privacy is a human right

Naturally, the determination of the protection of private life, whether in the Universal Declaration of Human Rights, or in international conventions on human rights, entails an international determination of this right. Which may lead to an obligation on the country organizing the agreement to protect this right vis-à-vis

other countries. If the international convention stipulates this, and it is what we see in the convention its provisions. Protection of human rights and fundamental freedoms, as it stipulates in Article Thirteen of it that every person who has been subjected to an assault on his rights and freedoms recognized in this convention has the right to challenge it before a party. National judiciary, even if this assault was committed by persons while exercising their official functions. This was recognized by the Criminal Chamber of the French Court of Cassation in many of its rulings¹¹.

In order to guarantee the international nature of human rights, including his right to protect his private life, the European Convention stipulates that every person who has violated one of his rights stipulated in this agreement has the right to resort to the competent bodies stipulated in this agreement to determine the penalty resulting from this assault, These bodies are represented by the European Commission for Human Rights, the Committee of Ministers, and the European Court of Human Rights.

¹¹ Dr. Muhammad Ali Sweilam, Explanation of the Information Technology Crime Law, University Press, 1st Edition, 2019 AD.

The second topic forms of crimes of assaulting the right to privacy.

The first requirement: forms of violation of the right to privacy in the UAE legislation

The Emirati legislator criminalized the assault on privacy in the text of Article (44) of the Federal Decree-Law No. (34) of 2021- which was previously mentioned - and the reason for criminalizing the assault on privacy is due to the great care by the UAE legislator to protect the privacy of persons from any attack that occurs It aims to guarantee the right to privacy from any assault on it, so that no person has the right to access the private life of others without their consent, or outside the limits specified by the law, and from the aspects of privacy entrusted with legal protection in UAE legislation, conversations, communications, audio and video materials, pictures and news And scenes, comments, data and information. The UAE legislator considered any behavior that violates privacy as a criminal offense punishable by law.

We will show the forms of the violation of the right to privacy, according to Article (44) of Federal

Decree-Law No. (34) of 2021, as follows:-

First: Eavesdropping, intercepting, recording, transmitting, broadcasting, or revealing conversations, communications or audio or visual materials.

The criminal behavior in this crime is that the criminal commits an act that constitutes an infringement of privacy by taking overheard, intercepting, recording, transmitting, broadcasting, or disclosing the victim's private telephone conversations or broadcasting audio or visual materials related to his private life, provided that this is the method used in This is one of the means of information technology defined by the Emirati legislator in the text of Article (1) of the law.

And what is meant by eavesdropping means: "It is the act of listening to a phone call without the knowledge of the people in contact with the phone. As for interception, it means eavesdropping, opening and reading correspondence and e-mail messages. It can be said that the two terms express one content, which is listening to phone calls and wired and wireless correspondence, either recording conversations or Communications, audio or visual

materials: The sounds, images, or scenes are fixed to a tape recorder, CD, or any other magnetic surface. To store and retrieve them when needed, i.e. listen to them after recording. As for transmitting conversations, communications, or audio or visual materials: intended to transfer them from one location to another location; Any place other than the place from which it was issued can be heard at any time during which it is transmitted by using an information network, an electronic information system, or an information technology means. As for broadcasting conversations, communications, or audio or visual materials: it is intended to broadcast, show and spread conversations or communications Or audio or visual materials and their dissemination among people. As for disclosing conversations, communications, or audio or visual materials: it is intended to give information to individuals about conversations, communications, or audio or visual materials, that is, to broadcast the content of the conversation¹².

Which raises the question about the spatial extent of responsibility for the crime of assaulting a person's privacy. Does the availability of one of these acts in public places change the concept of personal privacy? Or did the criminalization protect the nature of the conversations or the audio-visual materials?

In this regard, the Abu Dhabi Court of Cassation ruled that: "When that was the case and the incident, according to what is established in the lawsuit papers, occurred in a public place covered by all its employees and to the public (the Emirates Identity Office, the women's section of the Al Ain Municipality Center, with more) - and it is not a private place nor Entry to it depends on the permission of the victim - the office employees - and then the papers became devoid of certain evidence that the appellants attacked the personal privacy of the workers in that place, which is what the contested ruling failed to achieve. Correctly demonstrating this matter, and this does not undermine the assumption that it is correct to say that the administrative and financial

¹² Professor Zaid Haddi: Leakage as a method of investigation in the Algerian Criminal Procedure Code, Journal of Policy and Law Notebooks,

Issue Eleven, Faculty of Law and Political Science, University of Mohamed Khaider, Biskra, 2014.

procedures that must be followed to install the camera at the workplace, as this falls within the framework of administrative and disciplinary accountability for the workers responsible for installing that camera if there are reasons for administrative responsibility in their right ... ".

It is understood from this that the court has considered the general or specificity of the place as a criterion for the crime of assaulting privacy, so if these acts are available in a public place open to the public, criminal responsibility for them is not established, which we do not accept, as the constitution's protection of this right is in addition to ensuring some Criminal and civil legislation for this right, as it only comes due to the nature of these conversations and audio and video materials of any kind. A private call or conversation may take place in a public café in a public center, and a woman may divulge her secrets to her sister, and someone will object to this conversation or call, so is privacy denied here?

It would have been more beneficial if the court had proceeded to protect the right to privacy regardless of where the crime was committed and based on the criterion of private life

and not the private place, in order to protect a higher right, which is the right of the individual to protect his private life.

Second: Taking photos of third parties in any public or private place, or preparing, transferring, disclosing, copying or keeping electronic photos.

In the second paragraph of Article (44) of the of Federal Decree-Law No. (34) of 2021, the UAE legislator criminalized the violation of privacy through forms, and accordingly, forms of criminal behavior in this crime can be determined as follows:-

1- Taking pictures of others: it is intended to obtain and take pictures using an information network or an electronic information system, or an information technology method.

2- Preparation of electronic images: it is intended to create and equip them using an information network, an electronic information system, or an information technology means.

3- Image disclosure: intended to show, clarify, and clarify its secrets using an information network, an electronic information system, or an information technology means.

4- Photocopy: that is, taking a picture or a copy of it using an information network, an electronic information system, or an information technology means.

5- Preserving images: that is, of belonging to himself using an information network, an electronic information system, or an information technology means.

Third: Publishing news, electronic photos, images, scenes, comments, data or information, even if it is true and genuine, with intention of harming the person.

In the third paragraph of Article (44) of the of Federal Decree-Law No. (34) of 2021, the Emirati legislator criminalized Publishing news, electronic photos, images, scenes, comments, data or information, even if it is true and genuine, with intention of harming the person, and we can specify the forms of criminal behavior in the following points:-

1- The place of criminal behavior: It is the news, and the news is intended to convey information and events, and he speaks about it in words or in writing, and the news is a statement that bears the truth and lies for itself. This includes publishing news on the Internet about a specific person or his

family, in violation of the law or publishing news about a person accusing him in a case, or that he is declared bankrupt or a tax evasion.

2- Electronic images: Electronic pictures mean the images that are made through electronic devices such as computers, including publishing pictures related to the privacy of person and the sanctity of his private life as if he published some pictures related to the person's presence in a place of drinking alcohol and gambling.

3- Comments: It is intended to analyze and express opinions, whether verbally or in writing, and mention advantages and disadvantages.

4- Data: It means detailed information about a person or thing, through which it can be inferred.

5- Information: It refers to a group of news, ideas, and everything that leads to uncovering facts and clarifying matters.

Forth: Taking, transmitting, or publishing photos of the injured, the dead, or the victims of accidents or disasters without permission or consent of the parties concerned; and/ or

Fifth: Tracking, monitoring, revealing, transmitting, disclosing, copying or keeping the geographic location data of third parties.

Sixth: Using an IS or ITE to modify or process any record, photo or scene with the intention of defaming or insulting another.

The crime stipulated in Article (44) of the law occurs as soon as the news or pictures related to the privacy of persons are published, even if they were not published to a specific person, through the information network, or by using any means of information technology. The crime does not occur if the person is in a public place for others by taking pictures of himself¹³.

The second requirement is the forms of the assault on the right to privacy in Jordanian legislation

It is clear that the Jordanian legislator in the Cybercrime Law did not include a text related to the

criminalization of violating the private life of others through electronic means, but there is a general provision and it is the text of Article (20) thereof, which states that: “a - Anyone who uses an information network, information technology, information system, website, or social media platform shall be punished, based on the complaint, by imprisonment for a period of not less than three months and a fine of not less than (20,000) twenty thousand dinars and not exceeding (40,000) forty thousand dinars. To publish a recording, photo, or video of something that a person is keen to preserve and not show or conceal from the public, with the intention of defamation or offending, or to obtain any benefit from that, even if he obtained those photos, recordings, or videos legally.

b- Anyone who uses an information network, information technology, information system, website, or social media platform to perform an installation or modifying or manipulating a recording, photo, scene, or video that a person is keen to preserve and not show to the public,

¹³Professor Zaid Haddi: Leakage as a method of investigation in the Algerian Criminal Procedure Code, Journal of Policy and Law Notebooks,

Issue Eleven, Faculty of Law and Political Science, University of Mohamed Khaider, Biskra, 2014.

with the intention of defamation, offending, or obtaining a benefit as a result.”.

However, by referring to the Jordanian Penal Code, we find that Article (348) bis of the Penal Code states: “Any person who breaches the private life of others by interrupting the private life of others by interrupting hearing or sight by any means, including phonogram, or Taking pictures or using the binoculars, and the penalty is doubled in case of repetition.

From this article, we can define criminal behavior in the crimes of breaching privacy, which are the following:-

1- Overheard or sighted by any means: Intercepting correspondence means the confidential and continuous tracking of the suspect before and after committing the crime and then arresting him in flagrante delicto. On the other hand, it includes non-material evidence of the crime, and on the other hand it includes eavesdropping to the conversations. It is also considered an important method of modern research and investigation that is used by the judicial police and the interface of serious criminality and is done through

the means of wire and wireless communication.

2- Voice recording.

3- Take pictures.

4- Use of binoculars.

In jurisprudence: an opinion went to the definition of electronic surveillance as intentionally communicating and recording, and the subject matter of private conversations, whether direct or indirect, that is, whether it is one of the People exchange it against each other, or by means of wired and wireless communication.

Another opinion was to define it as meaning on the one hand wiretapping and on the other hand its recording “with recording devices, and it is sufficient to initiate one of these two processes (wiretapping or recording) for monitoring.

A third opinion is that surveillance is a special type of eavesdropping that sheds on personal conversations and telephone conversations surreptitiously, without the knowledge of the owner, by means of electronic devices, as a result of modern scientific activity, as it focuses on any personal conversation that a person has with others, and has a personal quality, as it focuses on calls

Telephone calls, to include wireless calls as well, and this procedure is done with the aim of obtaining nonmaterial evidence to be used in the field of lawsuits and investigations. This opinion concludes that we are not in the process of monitoring unless the following conditions are met:-

- 1- Hearing, which falls on the personal conversations and wired and wireless calls made by individuals,
- 2- That listening is hidden without the knowledge of the owner of the hadith, and by one of the modern scientific means or tools that have resulted from contemporary scientific activity.
- 3- Hearing these conversations should be eavesdropping in order to provide evidence suitable for evidence in the cases and investigations Surveillance can be defined as an investigation that undertakes surreptitiously and violates the confidentiality of private conversations, ordered by the judicial authority in the form specified by law with the aim of obtaining non-material evidence of a crime verifying its occurrence and that includes, on the one hand, eavesdropping on the conversation, and on the other hand,

preserving it with devices designated for that¹⁴.

By comparing the images of criminal behavior in the violation of privacy in the Emirati and Jordanian legislations, we see that the UAE legislation was more extensive in defining the forms of criminal behavior than the Jordanian legislation, as the UAE legislator included, for example, the forms of criminal behavior while the Jordanian legislator did not stipulate them exclusively.

The third topic is the penalty for the crime of assaulting privacy.

In this section, we will explain the penalties established for the attack on privacy in the UAE and Jordanian legislation through two requirements as follows:-

The first requirement is the penalty for the crime of attacking privacy in the UAE legislation

Article (44) of Federal Decree-Law No. (34) of 2021 defines the penalties for breaching and violating privacy, and we will explain in this requirement those penalties as follows:-

¹⁴ Dr. Abdul Razzaq Al-Mawafi Abdul Latif: Explanation of the Law on Combating Information Technology Crimes in the United

The legislator stipulated the penalty of imprisonment for a period of no less than six months, and this punishment is more severe than what was stipulated in the old law in Article 8, as the minimum limit for imprisonment was subject to the general rules, which is a month, and for the fine, the new law stipulated that it was not less than one hundred fifty thousand dirhams and not exceeding Five hundred thousand dirhams or either of these two penalties, in stipulated a set of measures that the court may rule, as it stipulated a measure to place the convicted person under supervision or surveillance, a measure to prevent him from using any information network, electronic information system, or any other information technology means, and a measure to place him in a treatment shelter or center Qualification of the material the court deems appropriate.

The second requirement is the penalty for assaulting privacy in Jordanian law.

In this requirement, we shall explain the penalties stipulated in Jordanian legislation regarding breach of privacy as follows:-

The Jordanian Cyber crimes law punished over crimes stipulated in

Article (20) with imprisonment for a period of not less than three months and a fine of not less than (20,000) twenty thousand dinars and not exceeding (40,000) forty thousand dinars.

The Jordanian Penal Code specifies the penalty for imprisonment for a period not exceeding three months for anyone who breaches the private life of others by eavesdropping on hearing or sight by any means, including audio recording, taking pictures or using binoculars, and the penalty is doubled in case of repetition.

From this it is clear that the Jordanian legislator has made the penalty of imprisonment without the fine as the original penalty for breaching the privacy of others.

From a comparison of what was stated in the UAE law and the Jordanian law with regard to the penalty for the crime of breaching privacy, we note that the Emirati legislator came broader in these penalties than the Jordanian legislator, as the UAE legislator stipulated a number of original penalties and a set of subsidiary and complementary penalties were attached to them. Reducing the crimes of penetrating the privacy of others.

* Conclusion

At the end of the research, it becomes clear to us that the approach of the Emirati and Jordanian legislators in combating information technology crimes tends to secure the greatest amount of legal protection for the privacy of persons. The right to privacy is one of the constitutional rights stipulated in the UAE constitution and the Jordanian constitution, and it is also one of the human rights stipulated in international conventions. And regional.

* Results

1- The right to privacy is legally considered one of the rights in dispute in terms of definition among scholars of law, and the reason for this is due to the legal nature of the right to privacy, which is a combination of a set of ethical and social considerations as well as an economic nature, and it is one of the rights that differ from Where the legal meaning is according to the nature of the place and time in which the victim is, and jurisprudence often leaves the issue of determining the meaning of privacy and its elements to the discretion of the judiciary.

2- The development of technology has greatly affected the privacy of individuals, especially when modern

technologies are used in all their spectrums to commit crimes that affect the right to privacy. With the development of these technologies, we have come to see crimes committed via the Internet and smart applications that affect the privacy of individuals, which is what prompted the legislator The UAE and the Jordanian legislator have sought to enact special criminal legislation to address these crimes and address them in order to achieve the greatest possible legal protection for the privacy of individuals.

3- The UAE legislation came broader in the scope of criminalizing the assault on private life from the Jordanian legislator, especially with regard to its identification of forms of criminal behavior for the crime of assault on privacy, and its punishment in Panama, the Jordanian legislation did not provide more details in this regard.

Second: Recommendations

1- The need for the Jordanian legislator to consider what the Emirati legislator took in terms of expanding the forms of incrimination for criminal behavior to attack privacy, especially in the field of penalties, as it did not stipulate the penalty of a fine.

2- The necessity for the Emirati legislator to define the scope of the

private life, the subject of legal protection, in order not to confuse it with public life. It is also imperative that both the Emirati and Jordanian legislators specify the material elements that make up the crime of assaulting privacy and not leave it at launch, as the definition is an important and necessary matter. In stating the legislative intent thereof.

3- The necessity of creating a criminal judiciary specialized in trying the perpetrators of crimes of assaulting the sanctity of private life by using modern technologies with the necessity of training judicial officers on how to deal with this crime that is committed using modern technologies.

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