

Iraqi Preventive Criminal Policy towards Crimes against Public Decency

Dr. Morteza Fathi^{1*}, Mohammed Hamza Idan²

^{1*}Assistant Professor, Criminal Law and Criminology, Faculty of Law, University of Qom, Qom, Islamic Republic of Iran | Email: M.fathi@qom.ac.ir

²Ph.D. Student, Criminal Law and Criminology, Faculty of Law, University of Qom, Qom, Islamic Republic of Iran | Email: ma2922106@gmail.com

***Corresponding Author:** Dr. Morteza Fathi, Assistant Professor, Criminal Law and Criminology, Faculty of Law, University of Qom, Qom, Islamic Republic of Iran | Email: M.fathi@qom.ac.ir

Abstract

This study strikes to deal with precautionary criminal policy in Iraq to deal with crimes against public ethics, through descriptive and legal basis on which it is founded, and enlightening its efficiency in defending ethical and social tenets and maintaining public order. It also seeks to balance the necessities of defending public ethics and ensuring constitutionally confirmed individual rights and liberties. The study depend on on the descriptive analytic method by reviewing and examining Iraqi legal texts in relation to to crimes against public morals, in addition to the comparative approach to legislative practices, as well as the critical method to assess the current defensive measures and propose suitable resolutions. The study stretched a set of outcomes, most particularly: that defensive policy is more efficient than disciplinary alone in reducing these crimes; that Iraqi legal texts, although comprehensive, sometimes suffer from generalization and vagueness; that weak organizational management between the experienced establishments reduces the efficiency of protective strategy; as well as the effect of technical expansions that contributed to the development of descriptions of crimes against public ethics.

Keywords: preventive policy, crimes against public morals, situational preventive measures, social preventive measures.

INTRODUCTION

Protective criminal policy seems to be one of the major pillars to safeguard societies from crime and other factors that can produce delinquency and rather than just consequent punishment. In Iraq, this policy has obtained unusual prominence in the face of crimes against public ethics that affect ethical, religious and social tenets, as it has a straight effect on the steadiness of the social edifice and the defense of the public performance of individuals. Article (403) specifies the punishment of anyone who produces, imports, publishes, displays, or possesses with the intent of developing or distributing publications, books, drawings, pictures, symbols, or others that can violate public decorum or ethics, whether this is done by classical means or via contemporary means of publishing. Article (404) also confirmed the illegalization of those who publicly advocate or seduce dishonest acts or achieve a place for that resolution, which comprises acts committed by means of electronic media and several media.

The deterrence of Iraqi criminal policy in this domain is presented via a mixture of institutional and social devices, where regulation intercedes to criminalize dishonest acts, whereas the capable agencies work to display public performances and control harms, in addition to giving attention to improvement and education programs. This is according to some precautionary viewpoint that seeks to attain The major issue of this study is the capability of the defensive criminal policy in Iraq to face crimes alongside public ethics in a way that attains a balance between the desires of defending the ethical and social tenets of society, and ensure for individual liberties guaranteed legally and constitutionally. The question arises as to whether the defensive procedures followed are adequate and suitable to reduce the spread of these potential crimes, in light of the social and and cultural alterations taking place in Iraq. Thus, the study can answer the following major questions: To what degree has the preventive criminal policy in Iraq prospered in decreasing crimes against public ethics, and attaining a balance between protective right public order and protection of individual privileges and liberties? The significance of this study also stems from an attempt to address ethical and social tenets of Iraqi society, which are crimes against public morals, which are categorized one of the most hazardous forms of criminal conduct because of its negative impacts on the consistency and steadiness of society. The significance lies in emphasizing the function of protective criminal policy as a vital tool in protecting society from nonconformity before it occurs, by dealing with its causes and studying means to decrease it. The study again attempts to indicate the appropriateness of Iraqi regulation and protective measures employed with the nature of current contests facing society, specifically in light of traditional openness and technical development. The practical and scientific and significance of the study measures in the face of these crimes, which offers a narrative addition to the Iraqi and Arab legal library. The study also seeks to provide suggestions that can benefit the representative and the knowledgeable administrative establishments in evolving means of hindrance and improving their efficiency to safeguard public ethics and safeguarding community from deviation, whereas affirming the needed balance between defending moral public order and preservation separate rights. This research attempts to study the protective criminal policy in Iraq towards crimes against public ethics by illuminating the hypothetical and legal basics on which they are based, and examining the pertinent governmental texts and their sufficiency in opposing these crimes. It also aims to disclose the deterrence devices adopted by the Iraqi legislator and their effect on the reduction of illegal behaviours on reducing immoral behaviors. In order to succumb to the recommendations and proposals that contribute to the development of the projected of this policy and improve the efficacy in accordance with the sort of cultural, social and technical changes in Iraq. Thus, this study is dependent on the descriptive analytic paradigm to extrapolate the Iraqi legal texts connected to crimes against public ethics and examining them to disclose the foundations of protective criminal policy in this field and its efficiency. In this domain, the study was categorized into two topics; first with personal preventive measures and the second is connected with was divided into two topics; the first is concerned with personal preventive measures related to the behavior of the individual, and the second is linked with situational (in-kind) preventive measures that connect to the time, place and means surrounding the criminal act.

The first topic: Personal preventive measures

Personal protecting measures are one of the vital implements implemented by contemporary criminal procedure to challenge criminal activities before their effects deteriorate in society, and they differ from consequences in their principle and purposes.

The first requirement: Community awareness and the promotion of ethical values

Community consciousness and the advancement of ethical values are one of the main pillars for the deterrence of crimes against public ethics, as these misconducts do not occur as a result of a failing of religious scruples, but a decline in obligation to sound ideals and traditions, or the impact of individuals on contemporary media that may spread divergent behaviors.

First: The function of educational organizations in spreading moral consciousness: Educational establishments play a crucial role in fighting crimes against public ethics, as they epitomize a preliminary situation for the rearing of young people and the inculcation of sound ethical and social morals. Through educational curricula that focus on moral education, legal consciousness, and correct social behavior, schools and universities educate students about the seriousness of nonconformities and behaviors contrary to public morals. Extracurricular actions, such as cultural and social clubs, and educational workshops, also underwrite to consolidating the concepts of respect and responsibility, and encourage students to adhere to societal values.¹

The school domain is the first exterior entity that the child meets and deals with. It has a great function to refine their perception of their interests. It can also contribute to raise children and guide them as well. The teacher often serve as the role model and the child seeks to emulate the parents. It was noted that protective measures in this sense, its members should reach adolescence and ends with its members attaining advanced ages. Each of these phases has basic programs that the state and citizens must execute and observe to diminish the aspect of criminality. It should also be observed that one of the most essential aims that educational organizational must seek to attain in order to defend society from crime and delinquency is to generate and advance a sense of social accountability among pupils and students by allowing them to do useful work for them and society early in their lives. Educational organizations must also work to attain communal unity and social justice.²

The educational scheme accepted by humanity has a direct effect to direct the trends of violence through what it promotes in their souls of obeying to old customs, as well as encouraging racism, and other trends that prevent the establishing relations with others.³ Another way to fight crimes and aberrations falls within the over-all objective of meeting the economic and social calamities of society, of which the educational organization is one of its central constituents, that is directed and focused on research efforts towards to study the well-founded issues experienced by societies in order to find suitable solutions to them in accordance with the device of methodical research, because criminality is only part of the social evils whose significance increases over time.⁴

The United Nations has engrossed in numerous international conferences, especially those connected to the rule of law and basic human rights, and the need for young people to conquer a leading location in the domain of crime prevention and to create an scholastic and educational atmosphere in schools that is safe and positive, with the livelihood of the local domain in many ways, which include all sorts of violence or sexual abuse in agreement with national laws, and assimilating the concepts of crime avoidance and unlawful justice and all issues connected to the rule of law in the inner instructive schemes of nations and incorporating them with all pertinent social and economic programmes and directing on programmes that lead to intensification of educational chances to facilitate access to education for all, which lengthens to the control of professional and mechanical skills.⁵

Additionally, educational protective measures must be taken to enforce a penalty on each head of family who avoids the duty of enlightening his children and the need to fight the aspect of absenteeism from school and avoid imposition of fines on owners of cafes and entertaining places who permit the reaction of events during school hours. An organization should be recognized whose function is to detect the natural trends and propensities of juveniles, and direct them to the type of study that suits their own wishes, and to feed their rational personality with science. This is the duty of teachers which need the attributes of deftness and care to detect every emotional deviation, which results from the behavior of the juvenile inside or outside the classroom or between him and his other peers. A emotional care section must be founded in each school.⁶

Second: Media consciousness operations against moral crimes: Criminal media is one of the most protruding protective actions, as it plays an essential function in fighting crimes, particularly those connected to human rights, as there are numerous bodies in the world spread according to global or national tenets that monitor human rights, important liberties and democratic tenets, as they monitor any violation that may occur to them by central, local or global authorities due to compulsion, violence, wars and occupation.⁷

The function of the media can be extended to taking efficient preventive measures that protect possible victims of crime in numerous ways, such as raising their consciousness, educating them to change their behaviors, or inspiring them to take the necessary provisions to protect their lives and money from assault⁸. printing, media, and publishing, offered that this does not prejudice public order and morals⁹. The Iraqi constitution affirmed the state's assurance of liberty of the press.

We believe that the media, through its print, audio, visual, and electronic means, can also shed light on crimes, their punishments, and the emotional features that affect their victims to aggravate public opinion, their sympathy with the victim, and the dissatisfaction of the criminal behavior of the perpetrator. All this and others raises a kind of overall deterrence among members of society, and may confine those who think of pursuing the path of crime. Comparatively new preventive measures can also be used in the inhibition of crimes, which may include the fitting of surveillance cameras in the streets, roads and public and private places. We support to interact the efforts of the state with all its legal, social and cultural establishments. etc. in the face of the causes of the increase and spread of crime, whether non-criminal factors such as poverty and redundancy, weak moral scruples, or legal factors signified by the insufficiency of present criminal laws for current misconduct¹⁰. The media plays an essential role in guiding and raising awareness of public opinion and thus following up the progress of members of society and alerting them to the dangers of crimes. This will serve as one of the humanitarian programmes and adherence to tenets, principles and authentic ways of living. They will focus on showcasing the dangers of criminality and its consequences on all sorts of public opinion to combat and reject it. Thus, the media has a great ability to reach the general public and its ability to form public opinion. This calls for media advertising operations that seeks to deal with some problems such as sexual exploitation of children that occur online. Therefore, focused media can contribute to fighting these sorts of crime these are susceptible to the destruction or construction of irresponsible media that depicts fault as normal behavior.¹¹

The second requirement: The role of the family in preventing crimes against public morals

In most cases family is the first part of constructing personality of individuals and shape his tenets and moral system. It is the first school in which children receive the basic tenets of interactive discipline and respect for public morals.

First: Strengthening family control to protect children: There is no united description among social experts of the term family because of their diverse views of the family, as the family can be thought as: a rudimentary and enduring social component that is not only the basis of the presence of society, but also the source of morality, the first pillar to control behavior, and the model in which man obtains the first lessons of social life.¹²

The family is indispensable to the basic characters build up and they mediate between individual and civilization which the person belongs. It is also strongly linked in terms of his social systems, which are in line with the patterns of culture prevailing in society. All forms of lifestyle

are some of the major patterns and dealings that can be observed in different situations. After that, the family draws his alignments in life through what the culture represents to him. The child typically responds and takes from the family his orientations that are personified in a set of socially acceptable forms of behavior and attitudes. The family education process comprises many and varied forms. The educational approaches followed in raising the child are personified to the processes assumed by parents in raising their children.¹³ The orientation frame of behavior via the procedure of individuality and society, after inferring the theoretic realism of the optimistic function that the family can supplement to Iraqi society and positive values, for example:¹⁴

1. Spreading the spirit of awareness, love, and tolerance to avoid extremist positions and tense feedbacks towards eliminating differences between the interconnecting parties, developing a sense of national unity between the major parts of the family and Iraqi society, to avoid some attitudes that result from sectarian, ethnic or national differences.

2. Developing communication skills among the family members to talk in words and offer ethnic, sectarian or national refinement, as well as the need for children to monitor television programs and organize them against those programs that incite violence and discernment.

3. Implementing the values of the true Islamic religion in dealing with others because of its means of communal control, not to mention the tenets that call for mercy, love and understanding among Muslims.

All this, indicates the great function of family in the prevention of crime in general especially in childhood and adolescence. This will prevent the potential crime within the society as well as sexual abuse or early delinquency. Adolescence is the commencement of the evolution of the child to youth, to masculinity or femininity, which is a bodily, expressive, mental and communal transition. At this stage, sex begins to tend to the opposite sex, and if the girl or boy has fun mixing, the girl may turn her emotion into one of her sex and the boy as well. The family must envisage it by perceiving the behavior of the youthful and knowing his real and virtual friends online. The family must also play the role of educating children at this stage and warning them of bad peers. The family must succeed in the spirit of dialogue and uprightness and stay away from ferocity until the son or daughter is familiar with the parents and tells them everything that happens to them, whether at school, on the street, or from friends, or if they are rendered to any form of sexual abuse, whether of the opposite sex or of the same sex, because it was mentioned to advance the act of efficient family control contributes to reducing crimes against public morals.¹⁵

The constitutions also comprised them in their texts, which include the dedicative Iraqi Constitution in force in 2005, when it encompassed an independent article dealing with its provisions, which stipulated: (First) - (a) The family is the foundation of society and the state conserves its moral, religious, and national entity and standards. The Iraqi constitution has assigned a duty on the state, which is to affirm childhood and motherhood and to work to offer a suitable environment for the expansion of their abilities as well as to attain social and health security for the family.¹⁶

Second: Educational programs to teach moral values: Educational guidance for the family play an effective function to prevent crime and overall morals and public ethics to plant the seed of vision within the family to avert problems. Educational programs to teach moral values are one of the most essential protective tools in contemporary criminal policy, as the treatment of crimes against public morals should not be compact to penal texts alone, but needs a universal vision starting from the stage of socialization and early education. School and family and religious organizations are all interrelated to deploy moral values. So, educational programmes are not simply theoretic informative activities, but rather thoughtful edifying plans aimed at developing the moral conscience of the individual to improve the societal values, and guiding his behavior towards respect for public order and public morals.¹⁷

In this sense, the legislator and decision-maker in the educational field have a shared accountability to articulate content that reflects the moral values of Iraqi society, commensurate with its cultural and religious heritage and the requirements of the times.¹⁸

These activities create chances for various students to interpret ethical standards into real-world behaviors, and help them comprehend that observance to public ethics is not a constraint on their freedom, but rather a assurance of a balanced social life in which mutual trust prevails.

In this sense, moral education turns into training for the exercise of responsible freedom.¹⁹

Besides the individual breadth, these programmes attain a vital societal breadth, which is the formation of a broad collective identity that individuals obtain via education, culture, and media society as a whole becomes a deterrent force averting the extent of criminalities against public morals.²⁰

Therefore, educational programmes seek to teach ethics, and good morals which are the essential pillars of preventive criminal policy. It aims to build a generation that is dedicated to standards, immune to crime, and able to implement its liberties within a model of social obligation. Thus, the crucial goal of Iraqi criminal policy in the field of defending public ethics is attained, which is to preserve society from within before resorting to penal texts.²¹

The second topic: Situational preventive measures (in kind)

Situational protective measures are amongst the main pillars assumed by contemporary criminal policy to reduce crimes against public morals.

The first requirement: Control of public places and recreational activities

Censorship of public places and entertaining activities is one of the most significant in-kind protective procedures taken by the state to lessen crimes against public ethics, as these spaces form a broad area for mixing and mingling, and they may sometimes be abused in illegal practices if real censorship is absent.

First: Establishing entertaining activities in line with public ethics: The criterion for establishing leisure activities in line with public ethics is based on the criminal seriousness of public morals crimes, which are defined as: "A psychological condition that a person has as a result of inner and exterior influences that make him more likely to commit a crime in the future."²²

It is clear from this assertion that the principle of unlawful seriousness consists of two cases:

The first case: The formation of entertaining activities based on the emotional state of the person, which include voluntary inclination to commit a crime as a result of two factors, the internal factor that is due to the criminal himself, which is attained numerous elements and other factors and behaviour that are varied in relation to the ecosystem in which the person lives. There is the family domain, the school entity, the work domain, the setting of friendship, and others, all of which affect the direction of human behavior towards good or evil as a result of the impact of these conditions on his behaviors.

As for the second case: Establishing recreational actions based on the possibility to commit the criminality will surpass those features that are unlikely to be devoted. The person who devoted a crime beforehand discloses his criminal psychology and then the likelihood to commit another potential crime that needs penalties. There is the need for certain criterion to prevent crime, as a person's act may be banned due to the increase of features that are likely to obligate the crime over those that are unlikely, even if he has not committed a crime previously.²³

Entertaining care is attained through fighting some harmful recreational terms to have legal control of some clubs and the ability to control those children of underage of around 18 years and the prostitutes. It is important to impose stern penalties on those who carry out assisting the way for prostitution or providing safe haven for the act of prostitution. Lebanon checking prostitution and escalating efforts to avert secret prostitution because the practice of prostitution is not restricted to what takes place in homes labelled for this purpose, but rather exists in other places ostensibly labelled for other purposes while functioning for prostitution directly or indirectly, like dance halls, clubs, bars,

casinos, and nightclubs. For entertainment purposes, they are numerous some of these that are necessary may include the setting of game cities, gardens, parks, and other legitimate means. Preventive policy also has a role if there is a criminal danger for the individual, because this situation may be difficult to identify clearly in most cases, but even with these, the chances for these measures become necessary in cases where the person's behavior poses a danger to himself or others, such as those in grief or mental illnesses, the beggar or vagrant, and the childish who lives in an location that may expose him to the risk of misbehavior, or the unconfined who become part of the practices prostitution because of paucity.²⁴

Second: Constriction control over places of a sensitive ethical nature: taking control of these places and certain law enforcements to be introduced to manage the public moral order and safeguard society from existence of delinquency. Public places such as cinemas, nightclubs, parks, theaters, cafes, and beaches are possible arenas for public crudeness or behavior outside social norms and public morals. Thus, constriction control over them is not just a mundane measure, but a legislative option based on a protective philosophy that try to find the likelihoods of the crime occurring before it takes on its public character.

In this sense, the role of intermittent examination and endless monitoring is highlighted as an indirect deterrent. Sporadic observing of entertaining venues to visitors that the authorities are following activities near the ethical boundaries will be dealt with. The suppression here is not restricted to the security aspect only, but includes managerial and procedural censorship such as examining the exhibited media, and ensuring that the place is not used to endorse unruly behaviors or illegal activities related to moral crime.²⁵

It is essential to observe that the tightening of control over these places does not represent an arbitrary restriction of individual liberties, but rather an effective way to control effective personal freedom. An individual's freedom ends when the acknowledged behavior begins to intimidate the central values of society or to bias the right of others to a public location free from disruptions. Thus, the legislators can set up these laws to serve as licenses and court procedures.²⁶

The constriction of control over residences of a delicate ethical nature has a deep social part, as it is not restricted to shielding individuals from disclosure to indecent acts in public places, but also to defending younger generations from early disclosure to manifestations of deviation that may affect their value behavior. So censorship becomes necessary to an outstanding society for the benefit of family and community.²⁷

Furthermore, tight control over these places leads to the attainment of public discouragement, as it is firmly founded that visiting some places can be controlled and feel comfortable through the presence of strong monitoring and deterrence firm. Thus, the status of disciplinary texts for public offensive acts is improved, as they become doubly authoritative due to field monitoring that makes the application of penalty realistic and operative, not just a theoretic text.²⁸

The second requirement: Media and technology monitoring

The observation of the media and technology will serve as the best preventive measures against public ethics and thinking and behavior, especially among young people.

First: Blocking websites that infringe public ethics: Man has made incredible advancement at all levels and areas of life and, and the act of globalization is one of it. Conversely, this sort of progress has not been able to monitor humanity to peace, love, dignity, and familiarity, so many manifestations of barbarism and ignorance remain stuck in the human psyche. Therefore, misconducts in the period of contemporary public services have become constantly increasing. Mobile phone, computer and Internet technologies are among the means of development of the modern era, and they have become a target for distinct sorts of criminals to commit various crimes. Practical devices such as the use modern technology can change different aspects of the society. It can do away with all negative manifestations and bring peace amongst people, perhaps the most projecting of which is their use in numerous unlawful behaviors, comprising their use in compelling to crimes against morals and public morals, which take several forms, such as the formation of a pornographic site or systems, the distribution of information with regards to pornography, or the storage, transfer, and production of what is opposing to public ethics through technical means, the case of provocation to wickedness, and the sexual exploitation of children through the Internet.²⁹

The process of blocking pornographic places is one of the significant protective means that the administration should move to execute some commissions on crimes to monitor ethics and all forms of sexual deviation within society and through the Internet. Despite what computer experts say that prevention is better than cure, it cannot be functional precisely in the field of cybercrime or cyberspace, yet it is imprudent to leave the space of cyberspace defenseless so that it is easily accessible.³⁰

In accordance with what was described, the reasons for the slip of electronic prostitution are sexual suppression that has made electronic sex a form of expressing, weak control within the family, and the absence of a legal protection device that can be useful to avert minors from retrieving these sites. This occurrence has so many harm. Electronic prostitution can lead to emotional engagement within the addict's morality of the values he was raised on, and among the new ethics he obtains via the Internet is the feebleness of the marital association owing to compulsion to practicing taboos through the Internet. Homosexuality, that is, misrepresentation of the inborn and natural sexual drive and nonconformity towards the bottom of homosexuality, which makes him incapable of natural sex and marriage in the future.³¹

So, the device to be applied to prevent internet sexuality can only be implemented by the Ministry of Communications and Companies even without the knowledge of the concerned party in many cases. In Iraq, there is no provision in Iraqi law that allows the state the right to prevent all forms of pornographic websites, but nonetheless, on 14/9/2015, the House of Representatives voted in the 22nd session on a resolve that gratifies the federal government to subject binding directions to both governmental and non-governmental organizations to control the work of the Internet and mandate them to block pornographic websites in order to preserve the public interest, while the Kurdistan Regional Government desisted from executing it.³²

Conversely, notwithstanding the progress of hindering technologies to block those websites, there is an issue of unexpected hacking that confirm the unfeasibility of entirely blocking unsolicited websites, especially with regards to children, owing to the appearance of thousands of innovative websites daily on the Internet, the large number of Internet services from which a huge amount of information flows daily, such as communication services via ICQ, chat via IRC and e-mail, in order to communicate with suspects and exchange forbidden data, obscene images or secret website addresses, as well as the accessibility of numerous new innovations to bypass insurance means.

Second: Inaugurating strict laws for the content of the media and social media: with regards to this aspect, as well as legality and penalty, the Constitution of the Republic of Iraq issued in 2005, which states that, as contained in the second paragraph of Article 19 that: "No crime or punishment except by text, and no punishment except for the act considered by law at the time of its commission is a crime, and no punishment more stern than the punishment in force at the time of the commission of the crime may be applied."

This tenet is also one of the legal taxonomies stipulated in most penal laws. Article 1 of the Iraqi Penal Code No. 111 of 1969, as amended, specifies that: "No act or omission shall be punished except on the basis of a law that offers for its criminalization at the time of its commission, and no fines or preventive measures may be executed that are not specified by law."

The content of the tenet is that any behavior issued by individuals, cannot be considered as a crime, unless there is a clear provision within a valid law that adopts to outlaw that behavior and involves a penalty, providing that the text was distributed before such behavior. It takes into account the political, social, and economic conditions that accompany its presence, as it contains the load of defending the pillars of

society to gratify certain needs and to build a developed society. The legislator views these pillars as (interests) that fit in his estimation to satisfy a certain human need, interest.³³

Nevertheless, some people are of the opinion that the interest is everything that contents the human being, and thus the interest varies from money, which means that they have all of its nature to please one of the human needs, and this idea of concern is more broad than the meaning of money, it is an idea that contains the meaning of money and more than what attains interest in things that cannot be called the word money.³⁴

Consequently, the primary task of the legislative authority is to safeguard any sort of aggression and to prescribe the suitable punishment for the position and prominence of these feelings. Thus, if this authority regulates that an interest deserves greater courtesy, it can state this through expresses punishment, and this matter is determined according to the conditions and desires of each society and its societies and economic, social and political systems because these changes unquestionably reflect developments in the values of societies.³⁵

In the field of preventive criminalization, it is noted that the interest envisioned by the goal of proscribing some performances is to reserve the basic welfares in society and avert them from being attacked, then the interest to be sheltered is a public interest. this defense is requisite the legislator to forbid any behavior that would jeopardize this interest, in order to defend these interests so that they are not impaired by the attacks that they may be exposed to, and this needs to decide penalize human behaviors, even if it has not yet reached the definite direct harm to a protected important interest, whenever that behavior leads to imperiling that interest, on the basis that this revelation is a prelude to the occurrence of harm resulting from the occurrence of harmful results to social interests. Consequently, the legislator does not really for any harm wait for the harm to occur, but works to avert its manifestation by outlawing dangerous behaviors at a stage prior to the attainment of destruction that may distress social interests, in order to protect these interests by protective illegalization.³⁶

The same applies to the criminalization of threatening the lives of people or their possessions contained in Article 343/1 of the Iraqi Penal Code, to protect more significant interests specified in paragraphs 3 and 4 of the same article, which is not to cause harm characterized in the interruption of a public facility or serious harm to money or death. The legislator also criminalized jeopardizing the lives of people or their possessions to cause drowning. The aim of this protective outlawing was to evade the damaging result of death or serious damage to money.³⁷ So, by banning acts, the criminal legislator should strike balance between the defense of the rights and freedoms postulated in the Constitution on the one hand, and the defense of the public interest on the other. The standard for this balance lies in the tenet of requirement and proportionality applied by the legislator in criminalizing acts, as well as its dependence on the philosophy that succeeds in society and that upsets its views on what is genuine and what is not. The legislative policy with regards to crimes against morals and public morals is hesitant, that is, crimes of assault on honour between two points of view. The first outlaws every act related to sexual life in any way and includes a violation of the moral or religious law governing it. Based on this, the possibility of sexual relations outside the domain of delinquency is constraint by the relations between spouses. The second point is limited to the field of crimes of attack on honour in a slight range. Based on this, the field of outlawing is incomplete to acts of attack on sexual freedom, which are acts committed without the valid consent of those who are subjected to them.³⁸

Freedom of expression, notwithstanding its legitimate and legal status, is not complete but is subject to boundaries forced by the requirements of defending the necessary values of society. Hence, the role of the legislator seems in drawing clear limits on what can be distributed and disseminated, by setting obvious penal supplies that proscribe the publication, production, or promotion of such demands. The protection of propriety via the control of media gratified and announcement is not a target for individuals. This will violate the digital space does not stop at the individual, but ranges to pose a complete threat to social steadiness.³⁹

Thus, the involvement of the lawmaker via stern laws is a necessary requirement in the face of misconducts against ethics, which are taking new forms in the period of digital technology, where ease of spreading, spread and rapid impact. The presentation of these rules reveals the state's consciousness of the prominence of preservation of moral ethics and guaranteeing that they are not undermined by unrestrained contents, and affirms that the defense of public ethics is a highest social interest that justifies the supreme legal protection from the legislator.⁴⁰

Conclusion

Considering the above, it becomes incumbent to assert the preventive criminal policy in Iraq towards criminalities against public ethics to represent a vital tool to protect society and preserve its moral values, by merging legislative, established and consciousness processes aimed at dealing with of such the deviance before it happens. Conversely, this plan still faces genuine trials with regards to the usage of social, innovative and cultural influences, which enforce the need to evaluate legal texts and develop deterrence devices to keep pace with modern variations. Consequently, the achievement of the protective policy depends on its ability to achieve a balance between protecting moral public order and warranting individual freedoms and rights, which needs the combination of executive, legislative and community efforts within the model of a complete reform vision.

RESULTS:

1. The study showed that preemptive criminal policy is more efficient in guarding society from criminalities against public morals than punitive policy.
2. Iraqi legal texts have revealed a clear curiosity in outlawing acts against public morals, but some of these texts suffer from generality and ambiguity, which confines their efficiency in practice.
3. It turns out that protective actions are not restricted to the legal aspect only, but also include cultural, social and media measures that play a significant role in increasing community consciousness.
4. The study exhibited that poor harmonization between the executive, judicial and educational bodies establishes a hindrance to attaining the anticipated results of the protective procedure in the face of these crimes.
5. The outcomes discovered that scientific progresses and social media underwrote to an intensification in forms of corrupt misconducts, which forces the protective criminal policy to expand to comprise cybercrime.
6. The study displayed that Iraqi society, by its conventional nature, is a sympathetic location for the initiation of protective procedures, but that economic and social encounters may undesirably mark their efficiency.
7. It was established that there is inadequate concern in the reform programs aimed at young people, which eases the influence of the preventive policy in reducing behaviors that violate public morals.
8. The outcomes presented that striking a balance between the defense of moral ethics and the protection of individual liberties forms the core of defensive criminal policy, and that any abnormality towards unnecessary negligence may lead to an unevenness in the defense of society.

Recommendation

1. Apprising Iraqi lawmaking connected to crimes against public ethics in line with social and scientific expansions, particularly in the field of cybercrime associated to social networking sites.
2. Augmenting established organization between the security, judicial, educational and media specialists to affirm a unified submission

of the protective policy and attain more effective results.

3. Increasing consciousness and management programs for young people and students via schools, universities and the media, to combine ethical values and warn them of the dangers of dishonest behaviors.
4. Offering safe social and cultural substitutions by supportive youth deeds and cultural and imaginative programs that reassure positive behavior and reduce the likelihoods of delinquency.
5. Founding dedicated units for the deterrence of ethical crimes within security and judicial organizations, accountable for early observation, social analysis and the expansion of positive plans to reduce the spread of these crimes.

References

First: Books

1. Behnam, Ramses, 1996AD, *The Struggle against Crime*, Maarif Establishment, Alexandria.
2. Al-Buti, Mohammed Saeed Ramadan, 1977, *Controls of Interest in Islamic Sharia*, 2nd Edition, Al-Resala Foundation, Beirut.
3. Jameel, Asmaa, 2013, *Social Violence*, Second Edition, Baghdad, without a printing press.
4. Habib, Mohammed Shallal, *Criminal Gravity, Comparative Study*, First Edition, Dar Al-Resala Printing House, Baghdad.
5. Hamdi, Bahaa Al-Din, 2013, *Criminal Media and its Effects on Crime Reduction*, First Edition, Dar Al-Raya Publishing and Distribution, Amman, Jordan.
6. Houry, Mohieddin, 2003AD, *Crime, Its Causes and Combating*, Dar Al-Fikr for Publishing and Distribution, Damascus.
7. Khreisan, Bassem Ali, 2021, *Cyberspace Entrance Epistemology*, 1st Edition, Baghdad Jellyfish House.
8. Khalil, Ahmed Mahmoud, 2009, *Crimes of honour and corruption of morals*, Modern University Office, Beirut.
9. Sane, Fakher, 1974, *Know Yourself*, 3rd Edition, House of Science for Millions, Beirut.
10. Al-Ani, Abdul Latif Abdul Hamid, 2009, *Introduction to Sociology*, Baghdad, No Press.
11. Abdel Sattar, Fawzia, 1985, *Principles of Criminology and Punishment Science*, Fifth Edition, Dar Al-Nahda Al-Arabiya, Beirut.
12. Fadel, Mohamed Ezzat; Al-Safo, Nofal Ali, 2017, *Information Technology Crimes against Public Morals*, Al-Sanhouri Library, Beirut.
13. Majeed, Sahar Fouad, 2019, *New Crimes*, 1st Edition, Arab Center for Publishing and Distribution, Cairo.

Second: Theses :

1. Al-Buqami, Mutheeb bin Mohammed bin Abdullah, 2009, *The Contribution of the Family to the Development of Social Values among Youth (Proposed Concept)*, supplementary research to obtain a master's degree in the Department of Islamic Education, Faculty of Education - Umm Al-Qura University.
2. Al-Jubouri, Nada Saleh Hadi, 2006, *Crimes against public tranquility, comparative study*, doctoral thesis, submitted to the Council of the Faculty of Law, University of Baghdad.
3. Al-Rubaie, Bassem Abdul-Zaman Majeed, 2000, *Theory of the Legal Structure of the Punitive Text*, PhD thesis, submitted to the Council of the Faculty of Law, University of Baghdad.
4. Mohamed, Mr. Ahmed Taha, 1989AD, *The Future of Punishment in Contemporary Criminal Thought*, PhD thesis submitted to Ain Shams University Faculty of Law.

Third: Research

1. Abu Ali, Muhammad Abdullah, 1974AD, *Theory of Social Interests*, National Criminal Journal, First Issue, Volume XVII, National Center for Social and Criminal Research, Cairo.
2. Boujomaa, Hantaoui, 2021, *Preventive measures in protecting society from crime in the light of modern criminal policy*, Journal of Ijtihad for Legal and Economic Studies, University of Ghardaia, Algeria, Volume 10 Number 3.
3. Borzanama, Rabeh, 2013, *Administrative control of sports clubs and their role in the development of high-level sport in light of the sports edges and the challenges of globalization*, Volume 5, Issue 1, Journal of Sports Physical Activity Science and Technology.
4. Report of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, Doha, 12-19 April 2015, p. 9.
5. Touq, Mohieddine, 1981, *The Role of Educational Institutions in Crime Prevention*, Research Published in the Arab Journal of Social Defense, Eleventh Issue, January.
6. Jerish, Rima, 2015, *Methods and types of exercising administrative control over public utilities and local groups in Algeria*, Journal of African Studies - Issue 38.
7. Hussein bin Said bin Saif Al-Ghafri, 2022, *Criminal Policies in Confronting Crimes of Sexual Exploitation of Children through Social Media Platforms in Omani Law and Comparative Legislation*, Journal of Jurisprudential and Legal Research, Thirty-seventh Issue.
8. Al-Husseini, Mishaal, 2021, *The Reality of Supervisory Performance in Sports Clubs in the State of Kuwait*, Volume 3, Issue 1, Scientific Journal of Sports Sciences, Faculty of Sports Education, Kafr El-Sheikh University.
9. Saleh, Malik Mansi; Hadi, Hala Hathal, 2022 AD, *The Role of Education in Promoting Human Rights and the Rule of Law: A Study in the Light of International and Domestic Law*, Journal of Legal Studies at Beit Al-Hikma, Baghdad, No. 55, June.
10. Alawi, Rana Majid Hashim, 2024, *The Reality of Supervisory Operations in Sports Clubs in the Kingdom of Bahrain*, Scientific Journal of Sports Science and Arts, Volume 79, Issue 1.
11. Al-Ghamdi, Fatima, 2022, *Family Dissolution and Passive Parenting: An Analysis of the Causes and Effects on Crime*, Arab Family Journal.
12. Mohammed Al-Hawari, 2004AD, *Conceptual Terrorism, Causes and Remedies*, a paper presented to the World Conference on the Position of Islam on Terrorism, Imam Muhammad bin Saud Islamic University, Riyadh.
13. Mohammed, Bin Smaili, 2021, *The Preventive and Therapeutic Role of Criminal Policy*, Al-Sada Journal of Legal and Political Studies, University of Algiers, 7th issue.
14. Mahmoud, Fatima Ismail, *The role of the Iraqi family in developing some positive values among children under the current circumstances from the point of view of teachers*, Journal of the Faculty of Arts, Diyala University, Issue (100).
15. Harris, Haider Ibrahim, 2022, *The Right to Education and its Guarantees under International Legislation*, Supplement to the Journal of the Iraqi University, Volume 16, Issue 1.

Fourth: Laws

1. Article (21) of the abolished Constitution of the Republic of Iraq of 1970
2. Article (38) of the Iraqi Constitution of 2005
3. Iraqi Penal Code No. 111 of 1969

ENDNOTES

- ¹ . Hussein bin Said bin Saif Al-Ghafri, 2022, Criminal Policies in Confronting Crimes of Sexual Exploitation of Children through Social Media Platforms in Omani Law and Comparative Legislation, Journal of Jurisprudential and Legal Research, Thirty-seventh Issue, p. 2014.
- ² . Touq, Mohieddine, 1981, The Role of Educational Institutions in Crime Prevention, Research Published in the Arab Journal of Social Defense, Issue 11, January, p. 128.
- ³ . Jameel, Asmaa, 2013, Social Violence, Second Edition, Baghdad, No Printing Press, pp. 97 et seq.
- ⁴ . Touq, Mohieddine, The Role of Educational Institutions in Crime Prevention, op. Cit., P. 129.
- ⁵ . Report of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, Doha, 12-19 April 2015, p. 9.
- ⁶ . Behnam, Ramses, 1996AD, The Struggle against Crime, Al-Maaref Establishment, Alexandria, p. 32.
- ⁷ . Hamdi, Bahaa Al-Din, 2013, Criminal Media and its Effects on Crime Reduction, First Edition, Dar Al-Raya for Publishing and Distribution, Amman Jordan, p. 72.
- ⁸ . Al-Ani, Abdul Latif Abdul Hamid, 2009, Introduction to Sociology, Baghdad, No Press, p. 217.
- ⁹ . Article (38) of the Iraqi Constitution of 2005
- ¹⁰ . Houry, Mohieddin, 2003AD, Crime, Its Causes and Combating, Dar Al-Fikr for Publishing and Distribution, Damascus, p. 511.
- ¹¹ . Mohammed, Bin Smaili, 2021, The Preventive and Therapeutic Role of Criminal Policy, Al-Sada Journal of Legal and Political Studies, University of Algiers, 7th issue, p. 173
- ¹² . Al-Baqami, Mutheeb bin Mohammed bin Abdullah, 2009, The Contribution of the Family to the Development of Social Values among Youth (A Proposed Concept), Complementary Research for a Master's Degree in the Department of Islamic Education, Faculty of Education - Umm Al-Qura University, p. 77.
- ¹³ . Mahmoud, Fatima Ismail, The role of the Iraqi family in developing some positive values among children under the current circumstances from the point of view of teachers, Journal of the Faculty of Arts, Diyala University, Issue (100), p. 148.
- ¹⁴ . Al-Ghamdi, Fatima, 2022, Family Dissolution and Negative Upbringing: An Analysis of the Causes and Effects on Crime, Arab Family Journal, p. 109.
- ¹⁵ . Mohammed, Mr. Ahmed Taha, 1989AD, The Future of Punishment in Contemporary Criminal Thought, PhD thesis submitted to Ain Shams University, Faculty of Law, p. 385 and beyond.
- ¹⁶ . Articles (29) and (30) of the Iraqi Constitution in force.
- ¹⁷ . Harris, Haider Ibrahim, 2022, The Right to Education and its Guarantees under International Legislation, Supplement to the Journal of the Iraqi University, Volume 16, Issue 1, p. 163.
- ¹⁸ . Saleh, Malik Mansi; Hadi, Hala Hathal, 2022 AD, The Role of Education in Promoting Human Rights and the Rule of Law: A Study in the Light of International and Domestic Law, Journal of Legal Studies at Beit Al-Hikma, Baghdad, No. 55, June, p. 203.
- ¹⁹ . Mohammed Al-Hawari, 2004AD, Conceptual Terrorism, Causes and Remedies, Research submitted to the World Conference on the Position of Islam on Terrorism, Imam Muhammad bin Saud Islamic University, Riyadh, p. 19.
- ²⁰ . Abdel Sattar, Fawzia, 1985AD, Principles of Criminology and Punishment Science, Fifth Edition, Dar Al-Nahda Al-Arabiya, Beirut, p. 438.

- ²¹ . Abu Ali, Muhammad Abdullah, 1974AD, Theory of Social Interests, National Criminal Journal, First Issue, Volume XVII, National Center for Social and Criminal Research, Cairo, p. 39.
- ²² . Habib, Muhammad Shallal, Criminal Gravity, Comparative Study, First Edition, Dar Al-Resala Printing House, Baghdad, p. 32.
- ²³ . Habib, Muhammad Shallal, Criminal Severity, Comparative Study, previous source, p. 106.
- ²⁴ . Boujomaa, Hantaoui, 2021, Preventive measures in protecting society from crime in the light of modern criminal policy, Journal of Ijtihad for Legal and Economic Studies, University of Ghardaia, Algeria, Volume 10 Number 3, p. 778.
- ²⁵ . Alawi, Rana Majid Hashim, 2024, The Reality of Supervisory Operations in Sports Clubs in the Kingdom of Bahrain, Scientific Journal of Sports Science and Arts, Volume 79, Issue 1, p. 142.
- ²⁶ . Jerish, Rima, 2015, Methods and types of exercising administrative control over public utilities and local groups in Algeria, Journal of African Studies - Issue 38, p. 399.
- ²⁷ . Borzanama, Rabeh, 2013, Administrative control of sports clubs and their role in the development of high-level sports in light of the sports edges and the challenges of globalization, Volume 5, Issue 1, Journal of Science and Techniques of Sports Physical Activity, p. 66.
- ²⁸ . Al-Husseini, Mishaal, 2021, The Reality of Supervisory Performance in Sports Clubs in the State of Kuwait, Volume 3, Issue 1 , Scientific Journal of Sports Sciences, Faculty of Sports Education, Kafr El-Sheikh University, p. 123.
- ²⁹ . Fadel, Muhammad Ezzat; Al-Safo, Nofal Ali, 2017, Information Technology Crimes against Public Morals, Al-Sanhouri Library Beirut, p. 7.
- ³⁰ . Al-Husseini, Meshal, The Reality of Supervisory Performance in Sports Clubs in the State of Kuwait, previous source, p. 123.
- ³¹ . Khreisan, Bassem Ali, 2021, Cyberspace Entrance Epistemology, 1st Edition, Baghdad Jellyfish House, p. 86.
- ³² . Majeed, Sahar Fouad, 2019, New Crimes, 1st Edition, Arab Center for Publishing and Distribution, Cairo, pp. 61-62.
- ³³ . Al-Buti, Mohammed Saeed Ramadan, 1977, Controls of Interest in Islamic Sharia, 2nd Edition, Al-Resala Foundation, Beirut, p. 23.
- ³⁴ . Al-Rubaie, Bassem Abdul-Zaman Majeed, 2000, The Theory of the Legal Structure of the Punitive Text, PhD Dissertation, Submitted to the Council of the Faculty of Law, University of Baghdad, p. 7.
- ³⁵ . Al-Jubouri, Nada Saleh Hadi, 2006, Crimes against public tranquility, comparative study, doctoral thesis, submitted to the Council of the Faculty of Law, University of Baghdad, p. 28.
- ³⁶ . The provisions of Articles 370 and 371 of the Iraqi Penal Code No. 111 of 1969 in force.
- ³⁷ . The text of Article 349 of the Iraqi Penal Code in force.
- ³⁸ . Khalil, Ahmed Mahmoud, 2009, Crimes of honour and corruption of morals, Modern University Office, Beirut, p. 7.
- ³⁹ . Al-Jubouri, Nada Saleh Hadi, Crimes against public tranquility, Comparative study, previous source, p. 125.
- ⁴⁰ . Al-Buti, Muhammad Saeed Ramadan, Controls of Interest in Islamic Law, previous source, p. 67.