



CRIMINAL LIABILITY FOR THE USE OF CHILDREN IN ORGANIZED CRIME

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Article history:	Abstract:
Received: 8 th February 2026 Accepted: 7 th March 2026	Liability, in its most general sense, indicates to the innate disposition with which Allah Almighty has granted human beings to be capable of fulfilling the duties He has entrusted to them regarding matters related to their religion and worldly affairs; if they fulfill their obligations, they will receive reward, and if not, they will face punishment. The Republic of Iraq affirms its commitment to promoting and protecting children's rights in order to improve the human rights situation in Iraq, particularly children's rights, and especially the protection of children from child labor, begging, terrorism, and human trafficking. In this study, we have addressed all forms of child exploitation and the criminal liability arising therefrom .

Keywords: Criminal liability – Use of children – Organized crime

INTRODUCTION:

Criminal liability consists of two words: the first is "liability," and the second is "criminal." Therefore, we will first define the term "liability," and then define the term "criminal," in order to arrive at a definition of criminal liability, as follows:

A. Definition of "liability" :

"Sala" (to ask) denotes a request or demand, and the one who asks is the requester. The term "liability" is derived from the root "mas'ul," meaning "the one who is required"¹ or "the matter that must be fulfilled"—that is, for which one is held accountable.² This is represented in the verse: "Stop them; they are accountable" (Al-Saffat 37:24).

Liability" is a passive participle derived from "asked" and "asks," and the active participle is "they are also askers," and the passive participle is "they are responsible," and the imperative form is "ask" and "ask"³.

Liability is a mandate, as in the saying of the Prophet, peace and blessings be upon him: "Each of you is a shepherd and is responsible for his flock"⁴...

In other words, each person is responsible for things entrusted to him and will be held accountable for it⁵. When someone is questioned about anything for which they are held accountable, they are said to be liable⁶.

According to linguistics, liability also means "the state or quality of one who is held accountable for a matter whose consequences fall upon him; ethically, it refers to a person's commitment to what he says or does, as in the statement, 'I am absolved of my liability for this action'; it also refers to the obligation to rectify a wrong committed against another in accordance with the law"⁷.

B. Definition of Criminal Liability:

¹ Ahmad al-Fayyumi: Al-Mishbah al-Munir, Vol. 1, p. 403; Ibn Manzur: Lisan al-Arab, Vol. 11, p. 382.

² Ali Abd al-Qadir al-Qahwaji: Penal Code, General Section, 2000 ed., Dar al-Jami'ah, Beirut, Lebanon, footnote on p. 578.

³ Muhammad Murtaza al-Zubaydi, Taj al-Arous.

⁴ al-Bukhari: Sahih al-Bukhari, Book of Manumission, Chapter on the Disliked Nature of Insulting Slaves and Saying "My Slave" or "My Maidservant," Hadith No. 2554, p. 510; see also Munzir Arafat Zaytun: Minors: Their Responsibilities and Care in Islamic Law, 1st ed., 1421 AH – 2001 CE, Majdalawi Publishing and Distribution, Jordan, p. 78

⁵ Ibn Hajar: Fath al-Bari, Chapter on the Slave Being a Trustee of His Master's Property, and the Prophet's Attribution of the Property to the Master, Vol. 5, p. 181.

⁶ Ibrahim Mustafa and Ahmad Hassan al-Zayyat: Al-Mu'jam al-Waseet, 4th ed., 1425 AH – 2004 CE, Al-Shorouk International Library, Cairo, Vol. 1, p. 411.

⁷ Dr. Yusuf al-Rifai, Criminal Liability, The Arab Encyclopedia, Damascus, Syria, p. 1.

In legal terminology, criminal liability refers to an act of transgression, assault, aggression, or crime. In jurisprudential terminology, liability refers to: It is the state in which a person is held accountable and responsible for the things and actions they have committed, or for bearing the consequences of unlawful behaviors they have chosen to commit while being fully aware of their meaning and consequences .

Some contemporary books have defined liability in a number of ways, the most significant of which is :

"A state in which an individual is subject to accountability for his actions and bound by their various consequences "¹.

Another definition of liability is : "Liability is the individual being held accountable for the consequences of his unlawful actions"² .

Dr. Al-Shafi'i states: "Liability, in its broadest sense, refers to the innate disposition with which God Almighty has endowed human beings to be capable of fulfilling the duties He has entrusted to them regarding matters related to their religion and worldly affairs; if they fulfill their obligations, they will receive reward, and if not, they will face punishment "³.

It is also defined as: "The obligation to bear the legal consequences arising from the presence of the elements of a misdemeanor in a particular act, with the focus of this obligation being the punishment or precautionary measures prescribed by law against the person involved in the crime"⁴.

Criminal liability presupposes the commission of a crime and the fulfillment of its elements, whether the offense is a felony, a misdemeanor, or a violation, and whether it is completed or only attempted. This means that the examination of criminal liability requires the commission of the crime and the fulfillment of its components. This implies that analysis of criminal liability comes after crime is committed and its components are met, criminal liability is examined. Therefore, liability is a result of the elements of a crime being fulfilled rather than of its components.

Jurists have differed in explaining the concept of criminal liability—whether it includes the meaning of a crime or is more specific to it—into two views:

The first perspective: According to certain jurists, criminal culpability and a crime are identical.

According to Imam al-Mawardi⁵ holds that a crime is a legal prohibition against which the Sharia stipulates a hadd punishment or ta'zir⁶. Ibn Farhun⁷, on the other hand, who maintained that anything related to property or requiring a hadd punishment or qisas is considered a criminal offense, stating: "Criminal offenses include offenses against the person, offenses against the mind, offenses against property, offenses against lineage, and offenses against honor"⁸.

The Second View: Some jurists hold that a felony is not the same as a crime:

A crime refers specifically to acts that warrant a hadd punishment or a discretionary punishment.

A felony, on the other hand, is an act that warrants qisas for a third party; that is, a felony constitutes an assault on the person or limbs only.

Qisas differs from hadd in a number of ways, including⁹:

-In cases warranting retribution, pardon and waiver are permissible even if the case is brought before a judge, unlike cases warranting a prescribed punishment, where no pardon is allowed once the case is brought before a judge.

¹ Muhammad Baysar, *Doctrine and Ethics and Their Impact on the Life of the Individual and Society*, published by Dar al-Kutub al-Lubnaniya, p. 248.

² Ibrahim Mustafa al-Zalmi, *Exceptions to Criminal Liability in Islamic Law and Arab Criminal Legislation*, 1st ed., Al-Qubtan Library, Baghdad, Iraq, 1998, p. 6.

³ Dr. Sami Jamil al-Fayyad al-Kubaisi, *Exemption from Criminal Liability in Cases of Permissibility*, First Edition, Dar al-Kutub al-Ilmiyah, Beirut, Lebanon, 2005, p. 12.

⁴ Dr. Ali Abdul Qader Al-Qahwaji, *Explanation of the Penal Code, General Section, Criminal Responsibility and Criminal Punishment* (Al-Halabi Legal Publications, 2008, pp. 231-232).

⁵ He is Imam Abu al-Hasan Ali ibn Muhammad ibn Habib al-Mawardi, who narrated from al-Hasan ibn Ali al-Hayli and Muhammad ibn al-Mu'alla al-Azdi. and Abu Bakr al-Khatib, Abu al-'Az ibn Kadash, and others narrated from him. He authored many works, including: *Al-Hawi al-Kabir*, *Al-Iqna' fi al-Tafsir*, *Adab al-Dunya wa al-Din*, *Dalail al-Nubuwwah*, *Al-Ahkam al-Sultaniyyah*, *Qanun al-Wazirah*, *Siyasat al-Malik*, and others. Al-Khatib said of him: He was trustworthy. He died in the year 450 at the age of approximately 80. Al-Subki: *Tabaqat al-Shafi'iyya al-Kubra*, 1977 edition, Dar al-Ma'rifah, Beirut, vol. 5, p. 267; Ibn Imad al-Hanbali: *Shadhrat al-Dhahab fi Akhbar min al-Dhahab*, Al-Maktab al-Tijari, Beirut, vol. 3, p. 285.

⁶ Abu al-Hasan al-Mawardi: *Al-Ahkam al-Sultaniyyah*, Dar al-Kitab al-Arabi, Lebanon, 1st ed., 1410 AH – 1990, p. 361; Munthir Arafat-Zaytun: *Minors: Their Responsibilities and Care in Islamic Law*, p. 130

⁷ He is Imam Abu al-Wafa Burhan al-Din Ibrahim ibn Ali ibn Muhammad ibn Abi al-Qasim ibn Muhammad ibn Farhun al-Ya'mari al-Madani al-Maliki, of Moroccan origin, traced back to 'Umar ibn Malik. He was born in Medina in 719 AH, where he studied until he excelled and became a jurist. He traveled to Egypt, Jerusalem, and the Levant, and assumed the position of judge in Medina in 793 AH. Among his works are: **Al-Dibaj al-Madhhab fi Tarajim A'yan al-Madhhab** (The Brocade of the School: Biographies of the School's Notables), **Tabsirat al-Hukam fi Usul al-Qadaya wa Manahij al-Ahkam** (Enlightenment for Rulers on the Principles of Judgments and Methods of Rulings), **Sharh Mukhtasar Ibn al-Hajib** (Commentary on Ibn al-Hajib's Abridgment), **Tasheel al-Mahamat** (Facilitating Tasks)... and others. He died in Medina in 799 AH. Khair al-Din al-Zarkali: *Al-A'lam*, 15th ed., 2002 CE, Dar al-'Ilm lil-Milyun, Beirut, vol. 1, p. 52; 'Umar Rida Kahala: *Mu'jam al-Mufasssirin*, Dar Ihya' al-Turath al-'Arabi, Beirut, vol. 1, p. 68

⁸ Ibn Farhun: *Tabsirat al-Hakim fi Usul al-Qadaya wa Manahij al-Ahkam*, 1st ed., 1406 AH – 1986 CE, Al-Azhar Colleges Library, vol. 2, p. 219.

⁹ Ibn Najim al-Hanafi listed seven distinctions between hudud and qisas in his book **Al-Ashbah wa al-Nazair** (Dar al-Kutub al-Ilmiyyah, Beirut, 1405 AH / 1985 CE), p. 129, under the principle that hudud are suspended in cases of doubt.

-Prescribed punishments are not inheritable, whereas retribution is inheritable.

-A judge may establish retribution based on the gestures of a mute person and their written testimony, whereas a prescribed punishment cannot be established by any of these means.

Ibn Qudamah,¹ is one of the scholars who held this view. He stated that:

"A crime is any act of aggression against lives or property, but in popular usage it is specifically referred to acts of aggression against the body. They have named crimes against property as extortion, plunder, theft, embezzlement, and destruction"².

According to Imam al-Dhili³, a felony holds that is any act that has been forbidden, regardless of whether it involves property or life; however, in the legal terminology, the term "felony" typically refers to conduct involving life and limb.⁴ This perspective, which is in line with positive law, which views a felony as a subset of crime, holds that a felony is a more definite category than a crime. What is termed a felony is defined by law as an act punishable by death, life imprisonment, or imprisonment for a term of between 5 and 20 years⁵.

Thus, the definition of criminal liability is:

-An ability of individual to take responsibility for their actions and be held accountable for them⁶.

-Or it is a situation in which a person is held accountable for their sins, that is, held responsible and held to account for them⁷.

-Or a person bearing the consequences of their crimes and being subject to the legal punishment prescribed for them⁸. Criminal liability is established only if two conditions are met: awareness and freedom of choice.

1 .Awareness

Awareness (or reason, consciousness, or discernment) is a term used in criminal law to indicate criminal liability; therefore, many legal experts prefer to use the term "criminal liability" rather than "capacity".

2 .Freedom of Choice:

This refers to an individual's capacity to direct their behavior toward a specific action or to refrain from a specific action, free from any external influences that might move or direct their will contrary to their own desire or to appease others. Due to the loss of freedom of choice, a person who is coerced into performing a criminal conduct is not criminally accountable for that act because the perpetrator would not have committed the act had it not been for the coercion.

Regarding the loss of free will, the Syrian legislative adopted the following reasons for exemption from responsibility (or exemption from punishment): force majeure, which can take two forms: necessity and coercion.

Here, it is crucial to observe the logical progression in the real-world application of both free choice and mental capacity. The judge must first evaluate mental capacity before evaluating choice if he finds that it exists and, as a result, that criminal capability exists. However, if the offender lacks mental capacity, they are not criminally liable, so there is no need to investigate free choice. This is because mental capacity loss results in the loss of the means by which the offender evaluates the degree of force majeure, determines whether resisting it is feasible or not, weighs the harm caused by the force majeure against the harm of committing the crime, and selects the lesser of the two evils⁹.

¹ Imam Abu Muhammad Muwaffaq al-Din Abdullah ibn Ahmad ibn Muhammad ibn Qudamah al-Jama'ili al-Maqdisi, later known as al-Dimashqi, was one of the leading jurists of the Hanafi school. He was born in 541 AH in Jama'il, a village near Nablus in Palestine. He studied in Damascus and traveled to Baghdad in 561 AH, where he resided for forty years before returning to Damascus. He authored numerous works, including: *Rawdat al-Nazar fi Usul al-Fiqh*, *al-Mugni*, *al-Mughni*, *Dhimm al-Tawil*, *Dhimm al-Musawwisin*, *Dhimm al-Mad'u al-Tasawwuf*, *al-Tawabin*, *al-Kafi*, and *al-Umda*. He died, may Allah have mercy on him, in 620 AH. Ibn Imad al-Hanbali: *Shadhrat al-Dhahab*, vol. 5, p. 88; Al-Zarkali: *op. cit.*, vol. 4, p. 67; Ibn Kathir: *Al-Bidayah wa al-Nihayah*, vol. 13, p. 99

² Ibn Qudamah: *Al-Mughni*, Vol. 9, p. 318; see also Munzir Arafat Zaytun: *Minors: Their Responsibilities and Care in Islamic Law*, p. 130

³ He is Imam Fakhr al-Din Uthman ibn Ali al-Zayla'i, a jurist and grammarian who settled in Cairo, taught there, issued fatwas, authored work and disseminated jurisprudence; He died there in Ramadan of the year 743 AH. Among his works are *Tabyin al-Haqa'iq* (Clarification of the Truths), a commentary on *Kanz al-Daqaiq*; a commentary on *al-Jami' al-Kabir* by al-Shaybani; and a commentary on *al-Durr al-Mukhtar* by al-Mawsili, all of which deal with branches of Hanafi jurisprudence, as well as the first treatise on the legal hadiths found in *al-Hidayah* and other books. Abu al-Wafa Muhyi al-Din al-Qurashi al-Hanafi: *Al-Jawahir al-Mudiyah fi Tabakat al-Hanafiya*, edited by Abd al-Fattah Muhammad al-Halaw, Hijr for Printing and Publishing, 2nd ed., 1413–1993, vol. 2, p. 520; Al-Zarkali: *Al-A'lam*, vol. 4, p. 210; 'Umar Ric Kahala: *Mu'jam al-Mufassirin*, vol. 6, p. 265; Haji Khalifa: *Kashf al-Zunun 'an Asami al-Kutub wa al-Funun*, Dar al-Fikr, 1402–1982, p. 56

⁴ Al-Zayla'i: *Tabyin al-Haqa'iq: Commentary on Kanz al-Daqaiq*, Dar al-Kitab al-Islami, Cairo, 2nd ed., vol. 6, p. 97

⁵ Articles 5 and 27 of the Algerian Penal Code; Fadel Al-Aish: *Criminal Procedure Law – Penal Code – Anti-Corruption Law*, pp. 164 and 172

⁶ Munther Arafat Zaitoun: *Juveniles: Their Liability and Care in Islamic Law*, p. 78

⁷ Mohammed Naim Yassin: *The Impact of Psychological and Mental Illnesses on Criminal Liability*, *Sharia and Law Journal*, a peer-reviewed scientific journal dedicated to publishing Sharia and legal studies, biannual, published by the Scientific Publishing Council, United Arab Emirates University, Issue 16, Shawwal 1422 AH (January 2002), p. 29

⁸ Ali Abdul Qadir Al-Qahwaji: *Penal Code*, p. 578.

⁹ Dr. Abboud Al-Sarraj, *Explanation of the Penal Code, General Section, Part Two, (Theory of Criminal Liability and Punishment)* Damascus University, Damascus, Syria, pp. 42–43 .

It is acknowledged that freedom of choice is not absolute, but is constrained by a range of internal and external factors. If these factors leave a person's freedom of choice intact, criminal liability arises; however, if these factors significantly impair that freedom of choice, criminal liability is negated. A person coerced into committing a specific criminal act is not criminally liable because they lack freedom of choice; the same applies to a person who was compelled by necessity to commit a specific criminal act. Had it not been for coercion or necessity, neither would have committed the act¹.

Iraqi laws define a child as follows:

"First: Civil Law No. (40) of 1951 did not provide a definition of a child, but rather stipulated in Article (106) thereof that (the age of majority is eighteen years) and stipulated in paragraph (2) of Article (97) that (the age of discernment is seven years)".

Second: Article 3 of the Juvenile Welfare Act No. 76 of 1983 specifies that the Act applies to minors and juveniles, and defines the specific meanings of "minor," "juvenile," "boy," and "youth" for the purpose of determining criminal liability, as a minor under the age of nine shall not be held criminally liable.

Meanwhile, "no criminal proceedings shall be brought against a person who had not reached the age of seven at the time the crime was committed," according to Article 64 of the amended Penal Code No. 111 of 1969. Additionally, a new draft Juvenile Law raises the age of criminal liability for juveniles to 11 years.

It should be noted that Iraqi legislation does not use the term "child" but rather terms such as "minor," "juvenile," or "boy." This does not invalidate these laws but reflects legal precision, given that the age of majority is set at 18 in Iraqi legislation.

First: Research Issues:

The main problem of this study is: the absence of a contemporary criminal framework commensurate with the gravity of these types of organized crime. What is the criminal liability for the use of children in organized crime under Iraqi law and comparative legislation?

This main issue gives rise to the following questions :

Second: Significance of the Research:

The significance of researching criminal liability for the use of children in organized crime stems from the importance of the issues we will attempt to address in this study, as well as from the characteristics of the victim in these crimes involving children—namely, their vulnerability to criminal exploitation and the exceptional danger posed by the perpetrators of such crimes .

Third: Research Methodology:

The research methodology we will follow in this study on criminal liability for the use of children in organized crime is a descriptive, analytical, and comparative approach. This entails outlining the current legislative provisions in Iraqi law, comparing them with those of other legal systems, and analyzing their adequacy or lack thereof .

Fourth: Plan for Research :

We will organize the study in accordance with the following research strategy in order to investigate criminal responsibility for the use of children in organized crime:

Section One: Criminal Liability for the Use of Children in Labor and Begging.

Section Two: Criminal Liability for the Use of Children in Terrorism, Human Trafficking, and Organ Theft

Section One

Criminal Liability for the Use of Children in Labor and Begging

Criminal Liability for Begging and the Use of Children in Labor

In order to examine criminal responsibility for the use of children in labor and begging, it is necessary to first analyze criminal liability for the use of children in labor, and then to discuss criminal liability for the use of children in begging.

As a result, we will divide this part into the two subsections that follow:

Subsection One: Criminal Liability for the Use of Children in Labor.

Subsection Two: Criminal Liability for the Use of Children in Begging .

Subsection One

Criminal Liability for the Use of Children in Labor

First: Restrictions on Child Labor :

All forms of the labor law forced or compelled labor, including (slave labor, debt bondage, and domestic work involving coercive elements), are prohibited. The minimum working age is defined by law at age fifteen (15) years, without distinction between children working with their families or with others.

The Labor Law emphasizes the protection in dangerous work, prohibiting the employment of minors or their entry into workplaces where the nature of the work or working conditions may harm their health, safety, or morals, and prohibits their employment in night work or mixed-gender workplaces.

-A minor may not work:

a. Underground, underwater, at dangerous heights, or in confined spaces

b. With machinery, equipment, or tools that are dangerous or require manual handling or the lifting of heavy loads

¹ Dr. Abdul Wahab Homad, Detailed Explanation of the Penal Code, General Section, Al-Matba'a Al-Jadida, 1990, pp. 311–312–313

- c. In an unhealthy environment that exposes juveniles to hazards or to unusual temperatures, noise, or vibrations that are harmful to their health
- d. Under difficult conditions for long hours or in certain night work conditions.

Second: The Position of Iraqi Legislation on Child Labor:

The preamble to the 2005 Constitution highlighted concern for children and their welfare, and Article 29(1) stipulates: "(b) The State shall ensure the protection of ... and childhood), but it did not specifically criminalize child labor, which is a clear constitutional shortcoming. Regarding the previously mentioned, Article 11(2) states: (Anyone who violates the provisions of the articles in this chapter relating to child labor, discrimination, forced labor, and sexual harassment, as applicable to each case, shall be punished by imprisonment for a term not exceeding six months and a fine not exceeding one million, or by one of these two penalties), In the other word, the law forbids and criminalizes acts that cause harm to children through their employment and exploitation. Additionally, the preamble to the law refers to the elimination of child labor and the minimum age for employment.

In conclusion, it can be concluded that Iraqi labor law attaches great importance to child labor, as seen by the aforementioned provisions rules and the penalties imposed on violators; nevertheless, the Iraqi legislature has not enacted laws requiring schools to keep track of children who drop out. We call on the legislature to impose stricter penalties on those who employ minors in dangerous and exhausting work that is not suitable for their age or who employ children below the minimum age for employment. Furthermore, the media has not fulfilled its expected role in raising awareness about the dangers of child labor and publicizing the penalties employers face if they employ children under the legal age. Periodic monitoring by officials from the Ministry of Labor and Social Affairs of workplaces and the identification of cases of child labor and other violations, as mandated by Article 127(1), has diminished through the inspection committees slated to be formed under Article 128 to identify such cases.

In Syria, the "Children's Rights" Law was enacted without stipulating penalties for the employment of children under the legal age.

Chapter Six of the law, Article 36, Paragraph (a), prohibits the employment of children under the age of fifteen.

b) It is prohibited to use a child for financial gain or to assign any tasks that could endanger their health, interfere with the child's education, or be harmful to their physical, mental, spiritual, moral, or social development.

c. In accordance with relevant laws, it is forbidden to force a child to work overtime or to keep the child at the workplace above the designated hours; additionally , child an not be employed at night, on weekly rest days, or on official holidays and public holidays,

d. Before being assigned to work, a child must get a medical test before being given a job to make sure they are healthy and suitable for the work they will perform, and the test shall be repeated once a year.

Article 61 stipulates penalties for offenders of paragraphs "a," "c," and "d" only: a. Anyone who commits the violation stated in paragraph (b) of Article (36) shall be punished by imprisonment for a period of one to three months and a fine of 100,000 Syrian pounds.

b. Anyone who commits any of the offenses mentioned in paragraphs (c) and (d) of Article 36 and Article 38 shall be punished by a fine of 50,000 Syrian pounds.

Section Two

Criminal Liability for the Use of Children in Begging

First: The Concept of Begging :

Begging is a serious social problem; it is a global phenomenon not limited to any particular society and is considered a social crime. Begging is defined as a person asking others for money in public places by using various techniques to elicit pity and sympathy from people.

Begging is regarded a social ill, and a beggar is a person who asks people for money using various methods, these are: crying, pretending to have lost money, claiming to need help, fabricating illnesses and disabilities, using newborns, hiring children and using them as a means, and exploiting crowded places such as markets and places of worship, as well as to be ill and in need of treatment, or claiming to have a mental disorder and uttering incomprehensible phrases to elicit people's sympathy and obtain money¹.

A child beggar is a child under the age of fourteen who uses begging as a means to obtain money, whose appearance elicits pity and sympathy from others, and who engages in this behavior intentionally, repeatedly, and regularly; this behavior occurs as a result of coercion by parents or caregivers to engage in begging.

Second: The position of Iraqi legislation and comparative laws regarding the use of children in begging:

One form of begging involves bringing children particularly those with mental illnesses or specific disabilities to places frequented by large numbers of people, such as mosques, markets, holy shrines, and cemeteries in an attempt to elicit feelings of mercy and compassion from others.

Or hiring children and using them as a means of begging while paying the child's family, where they create artificial disabilities for the children, often using deformed prosthetic organs.

With regard to these images—specifically, the use of children in the crime of begging—the Iraqi Penal Code penalizes such acts in Article 392, which states: " Anyone who persuades a person under the age of eighteen to beg shall be punished by imprisonment for a term not exceeding three months and a fine not exceeding 45,000 dinars, or by one of

The Judge Kazim Abdul-Jassim Al-Zaydi, "The Crime of Begging in Iraqi Law," published on the following website: <https://www.sjc.iq/view.5157> , published on February 13, 2019.

these two penalties. The penalty shall be imprisonment for a term not exceeding six months and a fine not exceeding 225,000 dinars or one of these two penalties if the offender is a guardian, custodian, or person entrusted with the care or supervision of that person ”.

As for the admirable stance of Islamic law on begging, Islam forbids begging and condemned beggars except in situations of extreme need, like extreme poverty. However, if begging is done for the sake of accumulating wealth and becoming rich, Islam has forbidden it because it harms society and exploits people.

The noble verses refer to this phenomenon in Surah Al-Baqarah, verse 177; Surah Al-Anfal, verse 75; Surah Al-Isra', verse 26; and Surah An-Nisa', verse 36. The essence of the matter is what the Exalted and Glorious One said: "As for the one who asks, do not rebuke him." This means that even if one is aware of beggar's circumstances, it is forbidden in Islam to reprimand, chastise or tearing them harshly.

And as the Prophet (peace be upon him) said, "Whoever begs while owning sufficient wealth he who asks while having what suffices him—only increases his portion of the Fire of Hell." They asked, "O Messenger of Allah, what suffices him?" He replied, "That which sustains him or provides for his livelihood".

Begging is a serious social issue; it is a global phenomenon not specific to any particular society, and it constitutes a social crime. However, begging is considered one of the most serious social ills afflicting Iraqi society. It may damage the reputation of society as a whole even before it harms the reputation of the beggar and it undermines the dignity of both the person and society. This scourge has seen a dangerous escalation whereas it was once limited to men and women, it has now spread to children as well. The issue of begging raises numerous issues, and it is imperative to establish a legal framework to handle it through deterrent legal provisions in the criminal code as a fundamental pillar of legal reform.

In Syria, Law No. 8 of 2019 was enacted, amending articles of the Penal Code issued by Legislative Decree No. 148 dated June 22, 1949, regarding the treatment of the phenomenon of begging, particularly the exploitation of children in begging, where Article (4) provides that: "Article 604 of the Penal Code issued by Legislative Decree No. 148 dated June 22, 1949, is amended to read as follows: Anyone who compels a minor under the age of eighteen or a disabled person to beg in any manner whatsoever for personal gain shall be punished by imprisonment with hard labor for a term of one to three years and a fine of fifty thousand to one hundred thousand Syrian pounds".

Section Two

Criminal Liability for the Use of Children in Terrorism, Human Trafficking, and Organ Theft

In order to examine the criminal liability for the use of children in terrorist crimes, human trafficking, and organ theft it is necessary first to discuss the criminal liability for the use of children in terrorist crimes, followed by a discussion of criminal liability for the use of children in human trafficking and organ theft. This necessitates dividing this section into the following two subsections :

Section One: Criminal Liability for the Use of Children in Terrorism.

Section Two: Criminal Liability for the Use of Children in Human Trafficking and Organ Theft .

Section One

Criminal Liability for the Use of Children in Terrorist Crimes

Humanity has known terrorism since the dawn of history; it is not recent phenomenon in societies, Terrorism, in all its forms and varieties, stems from multiple motives and targets specific objectives, aiming to disrupt security and order, intimidate and threaten people, cause them harm, and blackmail authorities. This is true even if current technology method is widely used in daily life and civil and political life has evolved.

Terrorist organizations depend on various means to achieve their goals and objectives. These groups may use traditional methods such as assassination and physical attacks, or they may employ scientific and technical means, exploiting communication channels and information networks.

Terrorism is defined as: "Acts that, by their nature, instill in a person a sense of fear of danger in any form¹".

Terrorism is defined as follows in Article 4 of the Iraqi Anti-Terrorism Law No. 13 of 2005: ((Any criminal act committed by an individual or an organized group targeting an individual, a group of individuals, groups, or official or unofficial institutions, causing damage to public or private property with the aim of disrupting security, stability, or national unity, or instilling terror, fear, and panic among the people, or causing confusion in order to achieve terrorist objectives)) keep in mind that it does not contain a direct definition of the term "terrorism," but rather a description of a set of acts that, taken together, constitute an act of terrorism. Therefore, an analysis of the text yields three main points, as follows:

3. There must be a criminal act, meaning that a person, group, or organization commits any human activity that is criminalized by applicable law and for which a penalty is prescribed, such as murder, robbery, threats, and other acts criminalized by applicable Iraqi laws. If there is no violation of criminal law, it does not fall within the scope of terrorist acts.

2 .The act must have produced a criminal consequence, meaning that the act results in either material or human harm, affecting individuals or official and unofficial institutions, or causing confusion and instability. Furthermore, the causal relationship between the act and the consequence must be continuous and unbroken; that is, the resulting impact must be a direct consequence of the act that occurred.

¹ Muhammad Mu'nis Mahbuddin, Terrorism in Criminal Law: A Comparative Study, Anglo-Egyptian Library, Cairo, 1999, p. 73.

3 .The act that caused the aforementioned effect above must be intended to accomplish terrorist goals; on the other word, if the act is carried out by a person or group of people but was not intended to achieve terrorist goals, it falls outside the scope of Law No. 13 of 2005 and is subject to the provisions of the relevant criminal laws.

It falls outside the scope of Law No. 13 of 2005 and is subject to the provisions of the applicable criminal laws¹.

Article 314 et seq. of the Penal Code, which was enacted on March 1, 1943 governs terrorist acts in Lebanon, wherein Article 314 defines terrorist acts as all acts intended to create a state of panic and committed by means likely to cause a public danger. Despite the vagueness of this definition, Lebanese law is regarded one of the most famous laws that criminalized terrorism before other laws that either did not specifically address the crime of terrorism or criminalized it at a later date.

We suggest defining the crime of terrorism as a crime carried out with the aim of instilling fear in the population of a state or a group of people. For an act to be considered a terrorist crime, it must have the potential to cause serious harm to a state, for example, and the potential to impose a severe burden on society.

Section Two

Criminal Liability for the Use of Children in Human Trafficking and Organ Theft

In term of criminal law, the concept of human organ trafficking is a relatively. Linguistically, human organ trafficking is defined as: "the practice of purchasing and selling, designed to earn a profit,²" which is the trade of the merchant—one who conducts business professionally. Ibn Khaldun, in his introduction, described trade as: an effort to increase one's wealth through buying goods cheaply and selling them at a high price³. Thus, the linguistic meaning of trade is limited to the exchange of goods for the purpose of profit; trade is the practice of commercial activities by offering goods to others in exchange through purchasing and selling⁴

According to linguistic dictionaries, the word "organ" refers any large bone joined by flesh and it is defined under the entry ('adha) as one of the organs of a sheep or the like, and i; its plural is "organs," and "to cut up the carcass" means to cut it into organs⁵.

According to physicians, the human organ is defined as: " a group of tissues that work together to achieve a specific function, such as the stomach, liver, kidney, heart, and others. As for the tissues that make up an organ, they are: "a group of cells that work together to accomplish a specific function and the cell is the smallest unit in living material"⁶.

Section Two

The Jurisprudential and Legislative Definition of Human Organ Trafficking

We start by outlining the jurisprudential definition of human organ trafficking:

In this context, we observe the paucity of definitions formulated by Islamic jurisprudence to define the nature of human organ trafficking⁷. Some scholars have defined human organ trafficking as "the act of an individual or an organized criminal group gathering people without their consent, through deception or coercion, whereby the organs of these victims are removed and sold as commodities for financial gain".

According to the Islamic Fiqh Council, a human organ has defined a as "any element of the human body, including tissues, cells, blood, and the like, such as the cornea of the eye, whether it is still attached or has been separated from the body."⁸

Second Section:

The Legal Definition of Trafficking in Human Organs:

We observe that the Law Regulating Organ Transplantation does not provide a definition of trafficking in human organs, despite the provision in Article 6 criminalizing the exchange of human organs for compensation—as is the case in the international definition—a specific definition of trafficking in human organs—but rather refers to it within the definition of human trafficking as one of its forms. The Egyptian Law on Combating Human Trafficking defines the crime of human trafficking as "any person who deals in any manner with a natural person, including the sale, offer for sale, purchase, or promise thereof, or the use, transport, delivery, or harboring, receiving, or handing over, whether within the country or across its national borders, if this is done through the use of force, violence, or the threat thereof, or through abduction, fraud, or deception, or abuse of authority, or exploitation of a state of vulnerability or need, or the promise to give or receive money or benefits in exchange for obtaining a person's consent to the trafficking of another person over whom they have control—all of which – if the

¹ Judge Salim Roudan al-Mousawi, "The Terrorist Crime," a research paper published in the Judicial Bulletin, Issue 1, Baghdad, Iraq, 2014, pp. 5–6.

² Al-Tahir Ahmad al-Razi, Al-Qamus al-Muhit, Section T, Entries T-J-R, Yutajara, Tajar, J, A, D

³ Ibn Khaldun, The Muqaddimah of Ibn Khaldun, Dar al-Tahrir for Printing and Publishing, Vol. 9, p. 238

⁴ . Aiz Naim Radwan, Principles of Commercial Law, 23rd ed., Dar al-Nahda al-Arabiya, 2009, p. 3.

⁵ Dr. Muhammad Abdullah Ould Mohamed: The Prohibition of Trafficking in Women and Their Exploitation in Islamic Law, Naif Arab University for Science and Technology From 15-17 March 2004, p. 171

⁶ Ibn Manzur: Jamal al-Din Muhammadin Makram ibn Manzur, *Lisan al-Arab*, Vol. 15, Beirut: Dar Sadir, 1990, entry "'Adha," p. 68;

⁷ Dr. Mustafa Ibrahim Abd al-Fattah, Human Trafficking and Its Relationship to Transnational Organized Crime, working paper presented at the symposium "Human Trafficking: Between Criminalization and Countermeasures," held at the Police Research Center of the Mubarak Academy for Security, Cairo, June 26, 2010, p. 9

⁸ Journal of the Islamic Fiqh Academy, Issue 4, Vol. A, 1988, Jeddah, Saudi Arabia, p. 805,

transaction is intended for exploitation in prostitution and other forms of sexual exploitation, the exploitation of children in such activities and in pornography, or forced labor, forced service, slavery, practices similar to slavery, or servitude, or forced labor, or the removal of human organs or tissues or parts thereof .

In fact, by making all forms of human organ trafficking such as sale, brokering, theft, and all other forms of trafficking acts that fall outside the scope of the rules set forth in the Organ Transplantation Regulation Law No. (5) of 2010, this criminal provision can be relied upon to establish a comprehensive legislative framework addressing by criminalizing Regarding the regulation of human organ transplantation and the non-acceptance of donations from a child or from a individual lacking or deficient in legal capacity, both the Egyptian and Kuwaiti laws stipulate the requirement of full legal capacity for a person donating an organ—meaning that the acceptance of a person’s donation of human organs depends on their full legal capacity. In the other hand, Article 2 of the Kuwaiti Decree-Law No. 55 of 1987 on Organ Transplantation explicitly stipulates that the donation or bequest of one or more body organs is permitted only for a person of full legal capacity¹.

In this situation, no one may under any circumstances act on behalf of an individual who lacks legal capacity or has limited legal capacity to consent to the donation of one of their human organs, as this constitutes a clear violation of their health and physical integrity without serving any therapeutic benefit to them².

A person who is legally incompetent or partially competent Consent financial rights such a proposal infringes upon the individual’s right to bodily integrity, which falls outside the scope of the financial rights of. And since legal representation is limited to financial rights, the legal representative’s consent to the donation of a human organ from a person lacking or partially lacking legal capacity for the purpose of transplanting it into the body of another sick person is not legally valid³.

In order to protect children from sexual abuse and exploitation and in order to safeguard all segments and sectors of society, the Iraqi legislature has long been concerned with the issue. Accordingly, Iraq has worked to enact legislation that protects children from all forms of violence and abuse, imposing harsher penalties for acts of physical abuse against children, particularly those of a sexual nature. 312- The text of Chapter Six of the Amended Penal Code No. 111 of 1969, titled “Indecent Acts,” in Articles (400), (401), and (402) (403) and (404), which impose penalties on anyone who commits an indecent act against another person without their consent, as follows:

Article (400): If someone do something indecent to another person, man or woman, without his or her agreement shall be punished by imprisonment for a term not exceeding one year and a fine not exceeding one hundred dinars, or by one of these two penalties;

Article (401): If someone do something indecent in public shall be punished by imprisonment for a term not exceeding six months and a fine not exceeding fifty dinars, or by one of these two penalties; Article (402) Any person who commits the following acts shall be punished by imprisonment for a term not exceeding three months and a fine not exceeding thirty dinars, or by one of these two penalties:

Anyone who solicits indecent acts from another person, whether male or female; or who, in a public place, subjects a female to words, actions, or gestures that offend her modesty; The penalty shall be imprisonment for a term not exceeding six months and a fine not exceeding one hundred dinars if the offender commits another offense of the same nature as the offense for which he was convicted within one year of the date of the previous conviction.

Article (403)

Anyone who manufactures, imports, exports, possesses, acquires, or transports, with the intent to exploit or distribute, a book, publication, other writing, drawing, image, symbol, or other object that is indecent or public decency;

The same penalty shall apply to anyone who publicizes any of the foregoing, displays it in public, sells it, rents it, or offers it for sale or rent, even if not publicly, and to anyone who distributes it or delivers it for distribution by any means whatsoever. It shall be considered an aggravating circumstance if the offense is committed with the intent to corrupt morals;

Article (404): Anyone who, in a public place, utters obscene or indecent songs or remarks, either in person or through an electronic device, shall be punished by imprisonment for a term not exceeding one year or a fine not exceeding one hundred dinars;

313 Article (3) of the Anti-Prostitution Law No. (8) of 1988 (punishable by imprisonment for a term not exceeding seven years) provides as follows:

Any pimp, or anyone who participates with or assists him in the act of pimping;

Any operator or manager of a public establishment or any other establishment open to the public who employs persons engaged in prostitution for the purpose of attracting customers to his place of business; anyone who owns or leases a house, rooms, or a hotel and permits others to engage in prostitution therein, or facilitates or assists in such activity.

-314In accordance with the spirit and text of the Convention, the Ministry of the Interior’s General Directorate of Nationality issued a circular in its letter dated June 10, 2009, No. 3299, the necessity of checking passports, especially those of travelers accompanied by their minor children, to ensure their legal status and verify their family ties, out of

¹ See Egyptian Law No. 5 of 2010, Article 5/2, as well as the wording of Qatari Law No. 21 of 1997, Article 4.

² Dr. Husam al-Din Kamel al-Ahwani, “Legal Issues Raised by Human Organ Transplantation and a Comparative Study,” Journal of Legal and Economic Sciences, Ain Shams University, Issue 1, Vol. 17, 1975, p. 22.

³ Ahmed, Dr. Tarek Fathi Sorour, Human Organ Transplantation Among the Living: A Comparative Study, Dar al-Nahda al-Arabiya (1st ed., 2001, p. 201)

fear that children might be exploited by unscrupulous individuals, and to ensure that all data is entered into the BASEIS system, particularly for children who have not reached the age of and those traveling with their guardians.

315 Since Iraqi laws and regulations are in force in the Kurdistan Region—such as the Penal Code No. (111) of 1969, the Juvenile Welfare Act No. (76) of 1983 and the Prostitution Law No. (8) of 1988, the government is working diligently to prevent the spread of this phenomenon. This has been reflected in the low number of crimes involving the sexual exploitation of children, with statistics indicating that such cases are few and far between or almost negligible.

CONCLUSION:

At the conclusion of this study, we arrive at the following findings and recommendations:

First: Findings :

-Begging is a serious bad phenomenon; it's happening all over the world not limited to any specific society and constitutes a social crime. For Iraqi society, it's actually one of the most harmful social issues. It can really hurt the reputation of society, even before it hurts the beggar's reputation, and it strips away the dignity of both the person begging and the community. This phenomenon has worsened significantly. Whereas it was once limited to men and women, it has now spread to children as well. The phenomenon of begging raises numerous issues; we absolutely need to put legal measures to overcome it through deterrent legal provisions in the criminal code as a fundamental pillar of legal reform.

- And when we talk about a child beggar, we mean a kid under fourteen who begs for money. They're usually made to look pitiful to get people to feel sorry for them. This isn't just a one-off thing; they do it on purpose, over and over. This usually happens because their parents or guardians force them to beg.

1 -Organ trafficking is a really awful business where people's bodies are treated like things to be bought and sold. It's a terrible way to exploit people, disrespects human rights, and attacks a person's right to control their own body.

2- Human organ trafficking is a serious problem and considered organized crime because it happens in secret, uses technology for bad purposes, messes with our values, and it's a global issue. This kind of crime isn't limited to one country; it's like an international mafia. We all need to work together to fight this awful crime.

3. Human organ trafficking is tied to economic and social issues, and the lack of laws governing these actions helps them flourish.

4. The organ trade arises because there aren't enough human organs to meet the demand for transplants, which sadly leads to this terrible trade.

Second: Recommendations:

-Adopting a particular international convention to combat human organ trafficking, considering the seriousness of these crimes as a type of organized crime, and ensuring that those who commit such crimes are punished.

-In order to combat the illegal trade in human organs, it is necessary to emphasize security and safety by stepping up surveillance at governorate entries and exits and to concentrate on media initiatives to increase public awareness of the risks associated with this activity.

-Increasing the harshness of punishment to the death sentence and imposing the maximum penalty on those who commit such crimes in public to serve as a deterrent to others and to those who might be enticed to perpetrate such horrific crimes.

-Making sure that children who are exposed to violence receive an immediate response .

-Offering youngsters social and psychological support services. -Keeping kids out of combat situations .

-Rehabilitating and reintegrating kids who have fought in armed conflicts .

-Establishing local committees to protect children in areas affected by displacement and refugees .

A number of procedures and programs aimed at lowering school dropout rates and improving family standards of life were included in the child protection policy paper.

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