

The Criminal Law's Position on the Crime of Killing an Employee while being on Job

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Abstract

The criminal law's position regarding the crime of killing an employee during the performance of their work does not deviate from the main elements of general criminal rights. The study of the provisions of this crime focuses on the three pillars (or elements) of the legal, material, and moral aspects of murder. It also considers various circumstances that may modify the liability of the perpetrator or the conditions for punishing them, such as attempted crime, complicity, justifications, special procedures for pursuing the perpetrator, and concludes with the explanation of penalties or precautionary measures resulting from the crime. It also examines the reasons for modifying the punishment, granting exemptions, or applying stricter measures due to various considerations. The study takes into account the surrounding factors of the crime, whether the criminal act is a result of the nature of the employee's work, leading to animosity that led to the commission of the crime by the perpetrator, or if it is unrelated to the nature of the work, considering the violation of state dignity or the perpetrator's lack of knowledge of the victim's occupation in public places. It is possible for the crime to occur against the employee while they are performing their work without the perpetrator being aware of the true nature of their occupation.

Keywords: *Employee - Murder crime - Material element - moral element - severe penalty.*

Introduction

Despite noble aspirations, life within a secure society is a clear indication of the civilization and sophistication of its members, far from the realm of crime. One of the most important objectives sought by Islam is the preservation of life and the prohibition of infringing upon it. The right to life is considered a gift from God Almighty to human beings, as it is one of the sacred endowments that came with divine legislation, particularly Islam. As stated in the Quran: "Do not take a 'human' life—made sacred by Allah—except with 'legal' right.¹ If anyone is killed unjustly, We have given their heirs² the authority, but do not let them exceed limits in retaliation,³ for they are already supported 'by law'." (Al-Isra: 33). Perhaps the most blatant violation of this right is murder. How much more if this act of killing occurs against an employee while performing their work, leading to the unjust loss of an innocent life. Various statutory criminal legislations recognize and affirm this, which the legislator has adopted. In order to uphold this right, legal protection has been ensured, and this crime also infringes upon the dignity of the state as it affects one of the pillars of administration. Consequently, the legislator has enacted a set of laws to develop the punishment system in order to deter

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various manifestations of this behavior when its elements are present and the perpetrator's responsibility is established.

Therefore, constitutional legislation has adopted a strict approach to punishment for crimes committed against an employee during the course of their work or due to the perpetrator's motive against the victim based on their job, even if the crime occurred outside official working hours or after retirement. This is because public sector employees represent the state and exercise its authority in enforcing the law and maintaining control over the population, aiming to achieve security and establish its dominance. The legislator has sought to protect employees from anything that threatens the smooth functioning of the various jobs they perform and to safeguard them from assaults on their physical well-being or any form of violation of their dignity and respect.

Research Problem:

The problem of the research lies in the ability to distinguish between the motives of the perpetrator, as these motives, which fall under the moral aspect, affect the outcome of the case. In the event that the crime occurs outside the workplace, it is necessary to be able to differentiate between the motives of the perpetrator for committing the crime. Is it due to the victim's occupation or for another reason? If it is for other motives, it is considered a regular murder. However, if it is related to the victim's occupation, it is considered an aggravated murder, and the penal code differs in holding the perpetrator accountable in such cases.

Study Significance:

The importance of the subject lies in highlighting the circumstances that warrant stricter penalties for the crime of killing an employee, in order to establish laws that impose harsher punishments. This is to protect employees from murder, threats, humiliation, and intimidation, allowing them to carry out their work perfectly and legally without any fear. Certain professions, such as judges, for example, are subjected to many of these manifestations.

Aims of the Study:

Through this study, I aimed to achieve several objectives, primarily to identify the gravity of the crime committed against employees and its impact on destabilizing society and affecting the integrity of the employee's work. In the event of such crimes, they would have a significant echo on social media, leading to spreading panic in society and a sense of insecurity and unease. It would also affect the overall work performance of employees. Additionally, this type of crime can lead to the commission of other crimes as a result of the primary crime, which is murder. Therefore, there should be deterrent punishments that provide healing for the victim's family and protect the employee while performing their duties. Otherwise, it will remain within a closed circle dominated by the desire for revenge. Through this research, we also aimed to shed light on the legal texts that criminalize this act, the imposed penalties, as well as the different reasons, bases, circumstances, and justifications for this crime and the factors that contribute to its severity or mitigation.

Research Methodology:

We relied on the descriptive-analytical approach and the study of positive laws in this research.

1. The Concept of Murder in General and the Murder of an Employee in particular.

There are several concepts related to the crime of murder, linguistically, terminologically, and jurisprudentially, that will be defined. We will also differentiate between the linguistic and legal concepts of an employee.

1.1. The Technical, Linguistic, and Jurisprudential Definition of the Crime of Murder.

1.1.1. Linguistic Definition of Murder

The word "قتل" (murder) is derived from the letters تاء, قاف, and لام. Its root is correct, and it signifies terminating a person's life, killing them, and being killed. The word can be used in different forms, such as قتلًا (killing) and تقتيلًا (causing someone's death). It can refer to ending someone's life through violence or causing their death by other means (Al-Kafouri, 2010: 125).

1.1.2. Terminological Definition of Murder

Generally, it refers to ending someone's life by another person without lawful justification. It involves the intentional act of taking someone's life, regardless of the method used, such as using a sharp weapon or poison. In Islamic law, which shares the same definition as the legal explanation, the act of ending a life is categorized into two types: intentional aggressive killing and non-aggressive killing, such as retribution or ending the life of an apostate. The punishment for murder in Islamic law is retribution, as stated in the verse: "O believers! The law of retaliation is set for you in cases of murder—a free man for a free man, a slave for a slave, and a female for a female. But if the offender is pardoned by the victim's guardian, then blood-money should be decided fairly³ and payment should be made courteously. This is a concession and a mercy from your Lord. But whoever transgresses after that will suffer a painful punishment." (Al-Baqara: 178).

1.1.3. Jurisprudential Definition of Murder

The definition varies according to the different schools of jurisprudence. According to the Shafi'i school, it refers to causing someone's death intentionally, which is highly likely to result in death. The Hanbali school, as explained by al-Buhuti, defines it as intentionally causing death, knowing that the victim is a human being and immune. In this context, it is a deliberate act aimed at ending a person's life (Al-Sharbini, 1997: 7).

In the Hanafi school, as described by al-Kasani, it refers to intending to cause death by using an instrument with a specific limit, such as a sword, knife, or spear, or using any object that can cause injury, such as fire, glass, or a tool made of copper. The intention is to cause harm leading to death (Al-Bahuti, 2003: 2858; Al-Kasani, 2003: 233).

In the Maliki school, it is described as the intentional act of causing harm to the victim through physical assault, such as striking or slapping, or using weapons like guns or solid objects such as iron or stones. The focus is on the intention of aggression that leads to death, regardless of the specific instrument used (Al-Shalabi, 1313AH: 98).

The legal definition of murder committed against an employee is similar to murder committed against any other person, but it requires more severe punishment. Murder, in general, is defined as the unlawful termination of a person's life by another person. Intentional murder is defined as intentionally ending a person's life by another person, unlawfully and without justification. The motive plays a significant role in determining the crime. Most cases involving employees have motives and reasons, and the criminalization here is a violation of the right to life. However, it is important to agree on the meaning of a public employee (Bousgai'a, 2016: 33).

1.2. The linguistic and legal criminal definition of an employee.

1.2.1. Linguistic definition of the term "employee":

The word "موظف" (employee) is derived from the root "وَطَيْفَهُ" which refers to what is allocated to a person in terms of daily sustenance or livelihood. The person is employed and assigned a job. An employee is someone who works in one of the government departments (Al-Razi, 1999; Mas'ud, N.D.).

1.2.2. Legal criminal definition of an employee:

We found that Article 2/19 of the Iraqi Penal Code states that the person responsible for public service is anyone who holds a position, whether an official, employee, or worker, assigned with a public task in the service of the government and its official and semi-official departments, as well as the affiliated interests or entities subject to its control. This includes judicial officials, members of boards of directors, directors and employees of institutions, companies, associations, organizations, and government-contributed institutions or any of its official departments in any capacity. In general, it includes anyone who performs unpaid public work or service, or their work or service, when the criminal act occurs, and they possess one of the described characteristics in this paragraph.

The person responsible for public service is anyone who performs work related to public service based on a mandate issued to them by a public official assigned with this task, in accordance with the laws and regulations applicable to their work and within its limits (Sorour, 1985: 121).

2. The elements of the crime:

The crime of murder consists of three elements (Al-Saadi, 1976: 123): the material element, the moral element, and the location of the crime. The material element is the lethal assault, which can also be an affirmative or negative act by the perpetrator. The method of killing can be inherently lethal, such as firearms, swords, knives, and others. It can also become lethal due to the perpetrator's use, such as a kitchen knife, a stick, stones, or various means, including stabbing a needle into a fatal area of the body. When the perpetrator engages in such behavior, it is considered intentional murder because it is a criminal intention directed towards committing intentional murder against the victim, who is the employee.

Experts in the field state that if death occurs as a result of such needle injections, it is considered murder. Also, strangulation or suffocation of the victim, where the perpetrator intentionally places their hand over the victim's mouth or neck to prevent the passage of oxygen to the lungs, is considered intentional conduct resembling the act of deliberate murder, as the perpetrator's intent is directed towards causing the victim's death.

Furthermore, if death occurs due to stab wounds in the neck or back, many of which are determined to be criminal in nature, and if there are incised wounds in the throat or head, they are usually intentional or criminal in nature. If they are determined to be criminal, we are facing a murder crime, and criminal responsibility is imposed on the perpetrator. The perpetrator's intent is to assault the life of the victim and cause death by means of a poisonous substance. There is a causal relationship between the criminal act of administering toxic substances to the victim and achieving the result of death.

2.1. The Material Element:

This crime must have a material element that embodies the criminal intent of its perpetrator. It must be manifested in actual actions, as without them, the crime cannot be imagined, and therefore it becomes difficult, if not impossible, to impose any punishment regardless of its nature or magnitude. The material element of this act is what brings it into tangible reality, transitioning it from an idea to execution (Al-Khalaf & Al-Shawi, 1982: 138-139).

The French law did not specifically emphasize the punishment for murder but rather classified the assault on an official while performing their duty or in connection with it as a crime within the context of offenses against authority and power. Since these mentioned actions are less severe than murder, the French legislator deemed it necessary to establish a specific provision in such cases.

Elements of the material element: The crime of murdering an employee does not differ from other murder crimes in terms of the material elements. The material elements are represented and depicted by the actual commission or abstention from committing the lethal assault (Harb, 1988: 32). These elements are:

1. The act of killing.
2. The criminal result.
3. The causal relationship.

The act of killing applies when the perpetrator carries out their act in a real and effective manner, which can be either positive or negative behavior. Article 4/19 of the Iraqi Penal Code (Iraqi Penal Law No. 111/1969) expresses this as "an act is any action that the law considers criminal, whether it is a negative or positive act, such as omission or refraining unless the law states otherwise." If the negative crime is the refusal of a person to perform a voluntary organic movement resulting in the death of a living person, the law imposes a prescribed penalty based on its provisions. For the negative crime to be applicable, both criminal intent and causal relationship must be present, meaning that the result of the person's refusal led to the death of another person. Positive crime, on the other hand, refers to a person who was subjected to brutal beatings by another person and left alive until their death without assistance from the same person. This is considered a positive crime (Khalil, 2002: 36).

The act of killing, which is the assault on the life of a living person, requires the person to be alive. According to Article 254, if this condition is not met, there is no crime. The Court of Cassation added that intentional murder with premeditation does not require anything except that the victim commits an act that naturally leads to their death with the intention of killing them. If death occurs as a result of a wound inflicted during the act of murder or from a non-lethal wound, provided that the cause of death is directly related to that act, it is considered a criminal act (Zalani, 2009: 35).

The criminal result is the impact of criminal activity, which is death. It is one of the most important elements of the material aspect of the crime of murdering an employee. The death of the victim is considered the result in the crime of murder. With this result, the material element is complete, regardless of whether it occurred during the assault or if death did not occur despite the actions (Abu Amer, 1977: 433-434).

When an assault on a person's life is committed, intent is present, and if death does not occur, the responsibility is limited to an attempted murder of an employee. Based on this, the Court of Cassation ruled as follows: "If the perpetrator intentionally stabs the victim, causing a wound that results in their death, they are considered the perpetrator of the crime of murdering an employee..." (Bousgai'a, n.d.: 265).

Therefore, the death of the victim is the result in all intentional or unintentional murder crimes, based on the perpetrator's intent and the determination of the intent to kill. Regardless of whether the killing is intentional or accidental, achieving the result of the victim's death determines the nature of the criminal behavior.

Proof of death: The law does not require a specific method of proving death. It can be established through various means, including simple evidence. The discovery of the victim's body or presenting a death certificate is not necessary during the trial, and a missing person is not considered dead. However, it is necessary to establish their death according to general rules. The accused cannot be required to prove that the claimant killed them while they are alive (Mansour, n.d.: 90).

The legal significance lies in the death of the victim, as it determines the nature of the criminal behavior carried out by the perpetrator. If the result of intentional premeditated murder is achieved, we have a completed murder crime. In cases of attempted murder,

either due to a suspended execution or failure to produce the desired effect for reasons unrelated to the perpetrator's intent, we are facing an attempted murder.

Causal Relationship: It refers to the relationship between the act committed by the perpetrator and the result that occurred and affected the employee, who is the victim. The harmful result that occurred as a consequence of the act is attributed to the perpetrator. It is not sufficient to prove the material element in any of the crimes by simply establishing that the perpetrator performed or refrained from an action and that it caused a harmful result (Al-Saadi, 1976: 160). Rather, the occurrence of this result must be attributed to the act itself. The criminal responsibility in the crime of murdering an employee lies in establishing a causal relationship between the perpetrator's behavior and the victim's death. Therefore, it was necessary to establish a causal link in the judgment; otherwise, it would be subject to deficiencies that require its annulment. It is not enough to attribute the act of killing to the perpetrator; the death of the victim must also be attributed to this act; otherwise, the incident would be a mere attempt.

The causal relationship does not pose any difficulty when the perpetrator's act is the sole activity that led to the employee's death, for example: when the perpetrator shoots and kills the employee or stabs them several times until they die. However, the difficulty arises when multiple conflicting factors intersect with the perpetrator's behavior, regardless of their contribution, which contributed to the commission of the crime. These factors may precede the act, coincide with it, or be, for example, the employee's health condition or if the perpetrator stabs them with a knife, and they are transferred to a hospital that fails to provide appropriate treatment, leading to their death, among other cases.

From here, several theories emerged:

1. The theory of equal causes: This theory considers all the factors that contributed to the causes leading to the result as equal, and each one is considered a cause for its occurrence. The perpetrator is held responsible for the result if they contributed to its creation, regardless of the extent of their contribution.
2. The theory of proximate and direct cause: Supporters of this theory believe that the perpetrator's act is not considered a cause, and there is no criminal liability unless it is closely and directly linked to the crime. Remote causes that are related to the result should be excluded, and thus criminal responsibility depends on the cause that played a direct, effective, and immediate role in achieving the result.
3. The theory of adequate or appropriate cause: Supporters of this theory believe that the causal relationship between them depends on the behavior, and the result depends on the appropriate cause. This means that the behavior is considered a cause of the criminal result if it is expected to lead to the natural course of events. This theory distinguishes between the factors that led to the result, considering some in relation to others. The concept of an appropriate cause implies the occurrence of criminal behavior by the perpetrator, which is expected to result in a harmful outcome or the death of the victim (Uhayba, 2003: 1).

2.2. The Moral Element:

The moral element is necessary for the commission of a crime legally. A crime is not just a tangible material entity, but it has important psychological causes that are taken into consideration due to the criminal motive that drives the perpetrator to commit the act. This is what is commonly referred to as the moral element, which involves understanding the psychological reasons that motivate the commission and execution of the crime (Hassani, 1988: 243). The Iraqi law has taken this into account in Article 33/1 of Law No. 111 of 1969.

It is essential to distinguish the meaning of criminal intent in the crime of murder. It refers to the perpetrator's intention to engage in criminal activity that involves encroaching upon a person's life knowingly. The intent must be free and voluntary, and the will should not be coerced into committing a criminal behavior. If the killing occurs under compulsion, it lacks criminal intent, and there is no criminal intention. Therefore, the perpetrator's intent to commit the act of assaulting a life and achieve the result of this act must be established. It also leads to unjustifiable loss of human lives. The legislator tends to protect thousands of people and not to prioritize one person's right to life over another (Mansour, n.d.: 116).

Furthermore, it is necessary to identify the elements of criminal intent in the crime of premeditated murder. Criminal intent is characterized by two fundamental factors that encompass all the elements of premeditated murder: the perpetrator's knowledge and intention regarding all the facts of the crime. It constitutes a complete crime, and the perpetrator is liable to punishment.

The perpetrator is held accountable under criminal liability. If one or both elements are denied, the perpetrator's intent and its meaning are invalidated. To establish criminal intent, two elements must be present: knowledge and intention (Al-Daraji, 2012: 2).

The discussion should also address the elements of criminal intent in crimes of killing employees. Criminal intent is characterized by two fundamental factors that encompass all the elements of killing an employee. These factors are the perpetrator's knowledge and intention regarding all the facts of the crime. Thus, it is considered a complete crime with all its elements, and the perpetrator bears criminal responsibility. If one or both elements are denied, the perpetrator's intent and its meaning are invalidated. To establish criminal intent, knowledge and intention must be present.

Element of knowledge in criminal intent: It is one of the essential elements underlying criminal intent. In criminal law, knowledge means that the perpetrator is aware that their conduct leads to a criminal result punishable by law, with an understanding of all the legal aspects of the crime. This applies to all crimes, including the intentional killing of an employee. If a person lacks knowledge of these elements, they do not meet the legal description of criminal activity. In the case of unintentional killing, the act occurs without the perpetrator's intent or knowledge, such as in cases of accidental killings. In contrast, intentional killing involves a perpetrator who is determined to kill and is aware that it is a criminal act. The law punishes those who commit it, assuming that the perpetrator has knowledge of the law.

The law also punishes the perpetrator of this crime because it assumes their knowledge of the law and awareness of the facts, meaning knowledge of the facts. The crime of intentional premeditated murder of an employee requires the perpetrator to have knowledge of the crime and commit it.

The law cannot criminalize a perpetrator who commits a murder without their knowledge, as it would serve as an excuse to deny responsibility. The law requires the perpetrator to be aware of the rights of the victim, which is a necessary condition for establishing criminal intent.

Regarding killing, it is an attack on a person's life, and criminal intent in this crime requires the following: the perpetrator must be aware that they are about to take someone's life and they know in advance the result they intend to achieve to impose criminal liability (Ibrahim, 2007: 12; Suleiman, 2005: 2).

Element of intention in criminal intent: It is the second element after knowledge in criminal intent. It refers to the psychological force that directs some or all of the perpetrator's body parts towards achieving an unlawful purpose or killing a soul. If intention is absent, the criminal objective is negated (Algerian Penal Law, Article 48). This is stated in Article 48 of the Iraqi Penal Code, which states: "There is no punishment

for someone who is compelled to commit a crime against their will." Intention is the essence of criminal intent in premeditated murder of an employee.

The forms of criminal intent include general intent, specific intent, direct intent, and indirect intent. We can observe that general intent is necessary for the commission of this crime, meaning that the perpetrator is aware of their criminal act and knows that it will be punished by the criminal law because it is an illegal action (Bouali, 2016: 188-189). The general intent in the crime of murdering an employee is the perpetrator's determination to commit the act of killing, knowing that the victim is a living being, and that their action will lead to the victim's death. On the other hand, specific intent refers to the intention directed towards a specific goal, particularly driving the commission of a particular act. As stated by the jurist Dr. Mahmoud Naguib Hassani, "Specific intent is based on knowledge and will, just like general intent (Abu Aifa, 2012: 316). However, it differs in that knowledge and will are not limited to the elements and components of the crime but extend to facts that are not elements of the crime." The specific intent for this crime is when the perpetrator's intent is directed towards achieving a specific result, specifically ending the life of an employee. Indeterminate intent is when the result is not predetermined at the start of the assault, and the perpetrator decides to pursue this crime. An example of this is when the perpetrator imprisons an employee and keeps them without food or drink, leading to their death. Thus, this is an intentional crime (Al-Halabi, n.d.: 206).

2.3. Emphasis:

The elements of emphasis and its reasons: The legislator considers the crime of assault and aggression against an employee and has specified a number of punishments for such assaults as determined by the penal legislator (Algerian Penal Law, Articles 148 and 149). But what are the penalties in the case of a crime of assault and murder against a public employee?

Circumstances are aggravated in the case of a murder committed against a public employee. The judge must rule with the harshest penalties against the perpetrator, whether they are objective or personal, depending on the status of the victim and the location where the crime occurred. The severity in the crime committed against the employee undermines the dignity of the state; therefore, it is necessary to impose strict penalties. The Iraqi legislator considered the victim's status as a special element in the crime, and without it, the crime cannot be established. It is a condition that the assault occurs while the employee is performing their duty or because of it. This is to provide necessary protection for the employee to perform their work without fear or anxiety. In administrative terms, an employee is anyone who consistently performs noticeable work in the public administrations. The penal legislator did not strictly adhere to this narrow administrative concept. The Penal Code, at the beginning of the section on "Crimes against Public Administration," expands the meaning to include individuals referred to in the legal text. Thus, an employee in this context includes public officials in the administrative or judicial sectors, officers in the civilian or military authority, and workers or employees in the state or public institutions (Civil Service Law No. 24 of 1960 as amended in Algeria, Article (2)).

Although murder is not included among the crimes against public administration, such as bribery, embezzlement, rebellion, or defamation, the reason for intensifying its punishment when it is committed against a public employee does not differ from those imposed by the legislator for the mentioned crimes that undermine the dignity of the state and its exercise of authority. Especially since the Penal Code specifically addressed the acts of violence that employees may face (such as physical assault or violence), which is not different from the concept of harm to individuals in civil law. There is no justification for deviating from this concept of an employee regarding the crime of murder.

Regarding certain crimes, the Penal Code expands the definition by including a range of individuals mentioned in the legal text, as the Iraqi legislator did in Article 406, which criminalizes attacks against employees. The law explicitly specifies that if the murder occurs against an employee or a person entrusted with public service during the performance of their duty or because of it, the penalty for the perpetrator is death.

It appears that when the penal legislator specified these individuals for a particular crime and associated them with employees, it was intended to distinguish them from other individuals mentioned in the previous article defining employees. Such expansion was aimed at the text. In French jurisprudence, when it comes to punishing acts of violence against employees, it applies the mentioned description to both court clerks and bankruptcy trustees, as the French law explicitly refers to "citizens entrusted with public service," which cannot be directly applied in our legislation due to the difference in the text. Nevertheless, the employee remains protected, even if there is a flaw in their job performance that justifies invalidating it or if they have not taken the required legal oath to fulfill the conditions of their employment.

The same applies if the employee exceeds their legal powers and performs an act outside their jurisdiction. As long as they have genuinely performed their job and appeared in that capacity before people, preserving the sanctity of their position necessitates harsher punishment for their killer. This is in line with the legislator's objective, which is to impose stricter penalties because the independence of criminal rights requires subjecting them to their specific criteria, which differ from the considerations of administrative rights related to the legality or invalidity of administrative acts. However, the situation is different if the employee clearly exceeds their powers, rendering their actions outside the bounds of their jurisdiction. In such a case, the employee loses their legitimate status and, while performing their mentioned duties, is treated as an ordinary individual. The punishment for their killer is not intensified unless the motive for the murder is directly related to the employee's legal position.

The law continues to protect the employee even after their dismissal or retirement if they are subjected to an attack due to their former position and the acts they carried out during their employment. For example, if a judge is killed after retirement to seek revenge for a judgment they issued during their service, the punishment is intensified based on the motive, without the victim's status being affected when they are subjected to the assault.

Emphasis obtained from the crime during the performance of duty or in connection with it: An employee does not benefit from the special protection provided to them in cases of murder continuously and under all circumstances. The murder must be linked to the employee's performance of their duties, which protects the practice of their job from assaults that hinder their work or undermine the authority's dignity. In order for the intensified punishment to apply, the assault must occur while the employee is performing their official duties (a pure temporal criterion) or due to reasons related to their duties (a moral criterion related to the intent of the perpetrator and the motive for the act). This was mentioned by the Iraqi legislator in Article 414 regarding assault on an employee, or in Article 410, where the intention may not be to cause death but results in death, and the penalty is imprisonment for no less than 15 years. The penalty is imprisonment for no more than 20 years if the crime is premeditated (Iraqi Penal Law, Article 410).

During service: The murder committed against an employee while performing their official duties deserves intensified punishment regardless of the motives behind the act, whether related to their job or personal motives unrelated to it. The mere occurrence of the crime during the employee's official duties justifies the intensification based on hindering the performance of the job and undermining the authority's dignity and status. Whether the employee is wearing their official uniform at the time of the assault or not does not affect the matter, nor does the location where they carry out their work, whether within their official premises or elsewhere while performing a task related to their job.

Whether the mentioned task is performed during official working hours or after them, it falls under the category of intensified punishment. Examples of such cases include the murder of a judge while on the bench or in their chambers at the courthouse, or the killing of a police officer while on patrol in a public area. The Iraqi legislator mentioned these situations in the text protecting employees from humiliation, which states that anyone who assaults an employee or anyone entrusted with public service, council, official body, judicial or administrative court during the performance of their duty or because of it shall be punished with imprisonment for no less than one year. The penalty is imprisonment for no more than six years or imprisonment for a term not less than six years if the assault causes injury or harm to a judge or a person holding a position of general director or higher while performing their duties or because of them. Moreover, any more severe penalty authorized by the law can be imposed on an offender causing injury or harm (Al-Salman, 2009: 137-139).

Outside service: According to legal evidence, if an employee is targeted for murder outside their official working hours or after their dismissal or retirement, there is no basis for intensifying the punishment of the perpetrator unless it is proven that the motive for the murder is related to the employee's position. The public prosecution must prove this motive based on the circumstances of the case, its details, the statements of the perpetrator, or other evidence. For example, if a smuggler engages in a confrontation with undercover customs officers during their duty and waits for one of them to leave their jurisdiction after work to kill them as revenge, the intensified punishment for murder applies only if there is no evidence of any motive other than seeking revenge for the employee's performance of their job. Similarly, if someone tries to kill a judge who issued a judgment against them while the judge is at home, the punishment is intensified if it is proven that the motive for the act was related to the judgment.

However, if the crime is committed due to a family dispute or a political animosity that arises between the perpetrator and the mentioned judge, there is no basis for intensifying the punishment.

Criminal intent: Intensifying the punishment of the perpetrator requires proving their knowledge of the victim's status and their performance of their job during the assault. If the murder occurs while the employee is performing their duties and the perpetrator's actions are driven by motives related to the employee's job, then intensified punishment applies. If the murder occurs outside the employee's official duties, the punishment is not intensified. For example, if someone kills an undercover police officer while they are in a cafe performing a task within their jurisdiction, but the motive has no relation to their job and the killer is unaware of the victim's status or that they are carrying out an official task, the penalty for intensified murder does not apply because the necessary criminal intent is absent. The public prosecution must prove the criminal intent or the mentioned motives based on evidence and circumstances. If someone targets a judge on the bench or a police officer directing traffic while wearing their official uniform, it is difficult for the perpetrator to claim ignorance of the victim's status, and therefore, if the perpetrator mistakenly targets someone other than the intended victim—for example, if a litigant opens fire on their opponent in a courtroom, but the bullet hits the judge—there is no basis for intensifying the punishment due to the absence of the required criminal intent.

The situation is different if the perpetrator targets the employee and ends up harming an ordinary person. In such a case, the intensified punishment for murder applies to the perpetrator.

The rationale for intensification: The rationale for intensifying the punishment of the perpetrator in this case lies in the need to preserve the dignity and authority of the state and ensure the smooth functioning of public facilities by protecting those in charge of them. This explains why the intensification is limited to the period during which the

employee performs their duties or the requirement that the murder be related to the victim's job (Bahnem, n.d.).

Effects of intensification: The effects of intensification can be summarized as follows:

Penalty: The existence of the aggravating factor in this case leads to converting the punishment to life imprisonment with hard labor. Additionally, according to the Iraqi Penal Code, the punishment for the crime of intentional homicide resulting in death is imprisonment for a term of up to 15 years, but the penalty is increased to 20 years in aggravated cases, such as when the offender is a public servant or a relative of the victim. However, the Yemeni legislator's decision was to impose the death penalty on anyone who intentionally kills a person, as stated in Article 234: "Anyone who intentionally kills a protected person shall be sentenced to death by retribution, unless the blood avenger pardons them unconditionally, conditions the payment of blood money, or if the offender dies before the sentence, the court shall rule for blood money, and the satisfaction of the victim is not considered before the act. To impose the retribution, the blood avenger must request it, and its legal evidence must be available. If either or both of these conditions are not met, or if the court refuses the retribution or it is waived without pardon, the offender shall be punished with imprisonment for a term not less than one-third of the maximum penalty and not exceeding ten years. It is also possible to impose the death penalty if the offender is known for evil deeds, committed the murder using a brutal method, targeted two or more individuals, had previously committed intentional murder, or conspired to commit another crime, conceal it, or committed it against a pregnant woman, a public servant, or someone entrusted with public service during, because of, or on the occasion of performing their duties or service, even if the retribution is waived." (Yemeni Law by Republican Decree Law No. 12 of 1994 on Crimes and Penalties, Article 234).

On the other hand, the Syrian legislator's decision in this case was to increase the punishment, considering that the assault on an employee is an attack on the reputation and authority of the state. They focused on two elements: that the victim is an employee, which includes "any employee in the government, judiciary, any official in the civil or military authority, or any component thereof, or any employee in the state or public administration." The crime is considered to occur within the scope of the employee's job if it happens because of their job or their status as an employee, even if it occurs outside their official working hours or after the termination of their service for some reason. The perpetrator's knowledge of these two elements is assumed for the intensification to take effect. The absence of the perpetrator's political motive precludes the crime from being considered political (Syrian Penal Law, Articles 535/534 (Aggravated Intentional Harm)).

C - Justification and Excuses: The perpetrator benefits from legal justifications, such as self-defense. For example, if someone kills a security officer who unlawfully invades their home at night without legal authorization, their responsibility for the mentioned act is eliminated (Hassani, n.d.: 228). The perpetrator also benefits from the excuse of provocation if the employee initiates an attack on them without justification and the assault reaches a level of danger that inflames the perpetrator's anger as prescribed (Syrian Penal Law, Article 252). It should be noted that the mentioned excuse does not apply in French law to acts of assault against employees as independent crimes separate from the crime of harming individuals, for which French law limited the excuse of provocation. The excuse of provocation is limited to assault and murder only, excluding other crimes.

Absence of political motive: Since the killing and harm of employees often occur during political disturbances where the perpetrators face resistance from security forces and the army, can these crimes be considered politically motivated? Article 196 precludes adopting the mentioned description, explicitly excluding "the most serious crimes in terms of ethics and public rights, such as murder, serious bodily harm, and attempted

commission of those crimes." French jurisprudence has adopted a similar solution and allowed imprisonment of the perpetrators to collect the fines imposed on them, which is not permissible in political crimes (France (N.J.). 14/1/1958. Group : 93).

Civil lawsuit: Can the heirs of the victimized employee, or the victim personally if the murder does not result in their death, assume the role of private plaintiff against the killer? Since the administration is generally obliged to compensate the employee or their heirs due to the assault on them, they cannot claim or be claimed for that portion of the damage not covered by the administration's compensation. The Paris Court of Appeal has accepted such a claim when the employee sought compensation for the subsequent disfigurement of their physical appearance, considering that they were not compensated by the administration. On the other hand, it appears that the administration has the right to claim compensation from the perpetrator to recover the amount paid to the employee or their heirs as a result of the assault (Paris (S.J.). 18/3/1958. Ghazit 1952, Vol. 1 : 29).

It should be noted that the intensification of punishment occurs when the perpetrator is aware of the law and understands the consequences of their actions, knowing that they are illegal and prohibited, and therefore, they are forbidden and deserving of punishment under criminal law, especially with regard to knowledge of the legal description and essential conditions or awareness of the legal provisions.

In other words, in the case of a murder crime, it is sufficient for the perpetrator to be aware that killing a person and taking a human life is an act that falls under the penalty. So, how much more if the perpetrator is aware that the punishment for assaulting a public sector employee will be significantly intensified and that it undermines the dignity of the state.

Conclusion

We have found that crimes committed against employees while performing their duties are considered crimes that warrant enhanced punishment for several reasons, as we have previously mentioned in this study, as they affect the dignity of the state and directly impact the stability and security of society.

In this study, we adopted a systematic approach and divided it into two sections:

In the first section, we explained the concept of murder in general and the specific concept of killing an employee. Within this section, we addressed two aspects: first, we provided an explanation of the terminological, linguistic, and jurisprudential meanings of murder, and second, we delved into the linguistic and criminal legal definition of an employee and the problems that may hinder their performance of duties.

Based on our study of murder and assault against a public employee, by shedding light on the relevant legal texts found in various sections of the Penal Code, it becomes evident that the legislator seeks to criminalize all acts that fall under the categories of murder and assault against public employees.

The legislator has decided on varying penalties to deter the public and protect them from harming these individuals, considering the general benefit provided by public sector employees. Public sector employees are considered important members of society, and the aim is to protect them from any blind attacks. To achieve this, the legislator has established specific laws and consolidated them in articles that emphasize the importance of reporting crimes of killing and assaulting public employees and imposing stricter punishments for such acts.

In the second section, we discussed the elements of the crime through three aspects: first, we addressed the material element; second, we discussed the moral element; and third, we provided an explanation of the concept of enhancement.

Results

Based on our study of murder and assault against public sector employees, by highlighting the legal texts scattered across several sections of the Penal Code, it becomes evident that the legislator seeks to criminalize all acts that fall under the category of assault against public sector employees.

Furthermore, we have found that it is difficult for the judge to determine criminal intent and criminal purpose.

1. The authority of the criminal judge is limited in its use when the punishment is severe, according to the legal provisions set by the legislator.
2. Aggravating circumstances arise when the facts and circumstances are associated with the crime of murder, leading to a stricter punishment.

Suggestions and Recommendations

Some of the most important suggestions and recommendations at the end of this topic are as follows:

1. The need to expand scientific research in the field of crimes committed by public sector employees to keep up with the evolving nature of these crimes.
2. Attempting to reconsider the adaptation of certain punishments, especially regarding crimes of assault against public sector employees in general, by imposing appropriate and deterrent penalties at the same time.
3. The necessity to broaden the scope of criminalization for crimes of assault against public sector employees and to impose stricter punishments in order to protect their lives and dignity.

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