

THE IMPACT OF THE CRIMINAL ACCUSATION ON THE CANDIDATE FOR THE PARLIAMENTARY ELECTIONS: A COMPARATIVE ANALYTICAL STUDY

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ABSTRACT

Based on the principle of innocence in humans, sometimes a person may be accused of a specific crime, as accusation is an adjective attached to a person, and it is a middle ground between conviction if evidence is proven and innocence or release, if the available evidence is not sufficient for conviction, and that criminal accusation The person directed raises a lot of problems, especially if it is not based on strong and proven evidence, and the extent of the impact of this accusation on the candidate's reputation, especially since the condition of good conduct is considered one of the essential and important conditions that must be met in the candidate for elections, whether stipulated by the legislator or not. Considering that the representative will represent the entire people, and that he is a member of the highest authority in the state, and therefore the candidate must have a good reputation and be far from suspicious people, and that he has high morals, decent qualities, and correct behavior.

Keywords: *Criminal Accusation, Parliamentary Elections, Egyptian law.*

INTRODUCTION

After the parliamentary elections became part of the constitutional and political life in Iraq, and a means to choose the oversight and legislative institutions, as a constitutional and democratic entitlement, as well as a means for the people to choose their representatives in Parliament, in addition to that the right to run for parliament is one of the constitutional rights of citizens, and this right is subject to regulation as many constitutions and laws stipulate that certain conditions must be met in the candidate for elections, and among these conditions is the necessity of good conduct and behavior in the candidate for elections, given that he represents the entire people and that he is the one who legislates the laws, and the road map on which the wheel of life in the state proceeds. Therefore, he must have good morals and a good reputation, and be far from suspicion, as we find that the Iraqi legislator has stipulated that the candidate must meet a condition of good conduct and behavior in the House of Representatives Elections Law No. (45) of 2013 in Article (8 / III) (A candidate for membership of the House of Representatives, in addition to the conditions that must be met by the voter, is required to include the following: He must be of good conduct

and conduct and not been convicted of a crime involving moral turpitude), while the new Law for Parliamentary Elections No. (9) of 2020 did not refer to this condition explicitly and clearly. Based on the foregoing, our research will explain the impact of the criminal accusation on the candidate for the parliamentary elections in Iraq, and whether the accusation alone is sufficient to exclude him from running for elections.

Research Significance

The researchers have chosen this topic of research due to the increasing and vital importance of good conduct in the legal, political and practical fields as well as the need for this condition to be applicable in the candidate for Parliament, and the extent of the impact of criminal accusation on this condition.

Research Problem

The research problem lies in the following questions

- *What is the ruling if a person is accused of a specific crime and before the verdict is issued against him, he is nominated for elections, is the condition of good reputation considered met or not?*
- *And what kind of crime is a person accused of in order to be considered to have lost a good reputation? Is the mere accusation evidence that the candidate has lost his good reputation?*

Research Methodology

The researchers have adopted this comparative analytical approach in their research, comparing it to the Egyptian law.

Research Structure

In order to take note of the subject, we have divided our research into two sections, the first in which we dealt with the nature of the criminal accusation and divided it into two requirements. The first is the concept of criminal accusation and the conditions that must be met in order to consider the person accused. Two requirements, the first is the concept of good reputation and its importance, and the second is the violation of good reputation by criminal accusation and its impact in comparison with the criminal judgment.

THE CONCEPT OF CRIMINAL ACCUSATION

It is known that one of the most severe situations that a person goes through, and even the most dangerous, is when he is the subject of an accusation, whether this accusation is true or not, and the extent of the impact of this accusation on the reputation of the person, especially when he is under accusation. Criminal accusation and the conditions that must be met for a person to be

considered accused. In the second requirement, we discuss the concept of the accused's innocence and its implications.

The First Requirement

Introducing The Criminal Accusation and The Conditions That Must Be Met to Consider the Person Accused

In order to take note of this issue, we will discuss it in two sections, the first is the concept of criminal accusation, and the second section deals with the conditions that must be met in order to consider a person accused.

Section One

What is the criminal charge?

Accusation is an emergency characteristic that a person can be described with after the availability of a set of evidence that appears to prove his conviction since the person in this case has not yet been issued a final judicial ruling condemning him, but the evidence and pressure represented in the interest of society impose interference and prejudice to his freedom, even to a small extent, so the judicial authorities take with them the procedures of research, investigation and investigation so that the accused receives his punishment if his guilt is proven. This means that the accusation as an emergency and temporary description of the person represents a transitional stage between two descriptions, one of which is proven to the exclusion of the other (Mohammed Majdeh). Based on the foregoing, we must know who the accused is and what the word accused means (Performance Dictionary, The Comprehensive Arabic Dictionary, 1997 and others). As he means the accused from the legal point of view, he is the one who is accused by a person, whether it is blood or money with a judge or a judge (Dr. Hassan Al-Jundi). As for the legal definition of the accused, when referring to the provisions of the Iraqi Penal Code No. 111 of 1969 as amended, as well as the Code of Criminal Procedure No. 23 of 1971, we note that the Iraqi legislator did not provide a definition of the accused, whether in the provisions of the Penal Code or in the Code of Criminal Procedure, despite the frequent use of this Pronunciation in several places in both laws. Apparently, the difficulty in the matter is that the legislator used the term "accused" to express the authority towards him, starting from the case of suspicion of committing a crime, including the stage of gathering evidence and investigation, Article (43) of the Iraqi Code of Criminal Procedure in force, and passing through the stage of investigation. Primary and ending with the trial stage until before the verdict is issued. This situation was the motive for jurisprudence in determining what is meant by the accused, as some defined it as (every person against whom the investigation authority takes measures indicating that he is charged with committing an act that the law considers a crime, whether as a perpetrator or an accomplice) (Dr. Ahmed Abu Al-Rous, 2004). It should be noted here that the suspect and the accused should not be legally confused, so whoever submits a communication, complaint or request against him is considered a suspect in respect of whom the judicial officer conducted some investigations or collected evidence, as this

person is considered a suspect and based on the foregoing, the accused can be defined as the person who A criminal complaint was filed against him in accordance with the law, and a charge was assigned to him by the investigation authority based on that complaint, whether the available evidence was sufficient or insufficient, and whether it was about a communication, an oral or written complaint, or in the case of flagrante delicto.

Section Two

Conditions for Considering Person Accused

Proceeding from the principle of personal criminal responsibility and in order for a person to become an accused and carry this capacity, jurisprudence and criminal legislators in most countries have unanimously agreed that certain conditions must be met in him, and these conditions can be summarized as follows:

- 1- That the accused person is alive, i.e. it is not possible to file a criminal case against a dead person.
- 2- The criminal capacity of the accused person: as the Iraqi legislator stipulated that legal measures may not be taken against a minor who has not completed nine years of age, based on Article (3/First) of the Iraqi Juvenile Welfare Law No. (76) for the year 1983, which stipulates (considered minor). Whoever has not completed nine years of age) (Juvenile Welfare Law of 1983).
- 3- The crime must be attributed to the accused: whether he is a principal perpetrator or a contributor, and the act attributed to the accused, if true, would be a crime.
- 4- The accused must be specific and specific: as this condition differs in the investigation stage, in which the accused is denied the accusation, and between the trial stage, as in the investigation stage, it is not required that the accused person be specific, given that the main goal at this stage is to reveal the identity of the accused, unlike the stage of the trial, in which the accused must be appointed and identified in particular.

The Second Requirement

What Is the Origin of The Accused's Innocence and Its Implications

Any person, regardless of the crime he is accused of and the extent of its seriousness and gravity, must treat this person as if he was originally innocent until his guilt is proven by a final judicial decision. Based on this principle, we must clarify the concept of the basic innocence of the accused and what are the implications for him.

First Part

The Original Innocence of The Accused

The concept of this principle represented in the principle of innocence in the accused has been referred to by most of the international and regional covenants and conventions. innocent unless proven guilty in accordance with the law (International Covenant on Civil and Political

Rights of 1966). This was also confirmed by the Universal Declaration of Human Rights in Paragraph (1) of Article (11), where it stipulated that “every person accused of a crime is considered innocent unless his guilt is proven by law in a public trial in which he is guaranteed the guarantees for his defense” (The Universal Declaration of Human Rights of 1948). In addition to international covenants, we find that most of the internal constitutions of countries have referred to this principle, and among these constitutions is the Constitution of the Republic of Iraq for the year 2005 in Article (19 / Fifth) thereof, where it states (the accused is innocent until proven guilty in a fair legal trial, and the accused is not tried for the same charge once others after his release, unless new evidence emerges (Constitution of the Republic of Iraq for the year 2005). While most of the Arab procedural laws have come devoid of text on this principle, with the exception of the Jordanian law, which stipulated in Article (147/First) under Law No. 16 of 2001 as amended that (the accused is innocent until proven guilty) (Hozan Al-Artushi, 2008), and based on For the foregoing, the principle of innocence in the accused is considered a basis for guaranteeing the personal freedom of the accused, and that the person, whatever the crime he is accused of and no matter how serious it is, must be treated as if he originally holds the status of innocence until his guilt is proven by a conclusive judicial decision.

Second Part

The Effect of The Principle of Origin in The Innocence of The Accused

The principle of the principle of innocence of the accused entails a set of basic and important effects, which we will try to refer to and summarize as follows:

1. The personal freedom of the accused must be guaranteed.

Where the accused must be treated as innocent, so that through that treatment he preserves his dignity and humanity, and he should be treated as a special treatment for an innocent person, whatever the crime attributed to him, whatever its gravity, and how this crime was committed.

2. The accused does not bear the burden of proof.

Based on the principle of the accused being innocent until proven guilty, the burden of proof rests on the accusing authority and on whoever brings charges against any other person who has to prove the crime in all its elements and establish evidence of the person’s responsibility, noting here that we must emphasize that exempting the accused from the burden of proving innocence does not It means depriving him of providing evidence that leads to his innocence (Hozan Al-Artoushi, 2008).

However, there are exceptions and in certain cases the burden of proof falls on the accused. For example, we find that the Iraqi legislator considered the act that is committed in

implementation of the law or the order of a legal authority. There must be proof of good faith on the part of the accused, as Article (40) of the Iraqi Penal Code No. 111 of the year stipulates Amended 1969 stipulates that (there is no crime if the act is committed by an official or a person entrusted with a public service-**First**: If he performs, in good faith, an act of implementation of what the laws have commanded, or if he believes that his action is within his competence. **Second**: if the act occurred on his part in implementation of an order issued to him by a superior who must be obeyed, or I believe that obedience to him is obligatory upon him) (Iraqi Penal Code of 1969). Likewise, Article (81) of the Iraqi Penal Code indicated that the burden of proof falls on the editor-in-chief or the editor in the crimes committed by his newspaper, provided that they prove that the publication took place without their knowledge (Iraqi Penal Code of 1969). The same applies in the case of legitimate defense (Iraqi Penal Code No. 111 of 1969, as amended). Through the above articles, it seems that the Iraqi legislator has violated the principle of the accused being innocent until proven guilty, as he placed the burden of proof on the responsibility of the accused, and he must present the evidence of the denial if he so desires, and given the development in the specialized agencies in collecting evidence and contributing to revealing the truth and the development of the investigation requires the accusing authority It assumes its responsibility towards the accused by applying the principle (the accused is innocent until proven guilty) and this is without exceptions.

1- Doubt is explained in favor of the accused:

Doubt in the evidence or evidence presented against the accused is the case in which the evidence and evidence are in the case before the judiciary after balancing them, so that he cannot say that they have reached a complete conviction that reaches the degree of certainty in order to decide according to the conviction (Hozan Al-Artushi, 2008), The court must refer to the principle, which is the innocence of the accused, when there is doubt about the evaluation of the evidence or doubt about the proof of the charge against the accused person. Consequently, the doubt must be interpreted in favor of the accused, and this is what the Court of Cassation went to in one of its decisions, where it ruled that “if the accused denies the charge attributed to him in an investigation and trial and no eyewitness testimony is available against him, then it is not permissible to judge him if there is one presumption assumed by the trial court, this presumption is not It rises to the rank of evidence unless it is reinforced by other evidence and evidence, just as the single presumption is not valid on its own as evidence of conviction if it is matched by evidence and evidence that denies the accused the charge attributed to him. Therefore, such a judgment is subject to veto if it is based on conclusion and doubt, as the doubt is interpreted in favor of the accused. Court of Cassation / a second expanded body / 1990). Based on the foregoing, it can be noted that the doubt is interpreted in favor of the accused in the field of evaluating the evidence of proof and does not apply in the case of interpreting the law, and therefore the judge must refer to the principle

of the accused's innocence whenever the evidence is in doubt, as the judgment cannot be based on doubt and if it is built on doubt It was considered against the law and required to be overturned.

Section Three

The Effect of The Criminal Accusation in The Nomination for Parliament

The right to run for parliament is considered one of the constitutional rights of citizens, and this right is subject to regulation, as many constitutions and laws stipulate that certain conditions must be met in the candidate for elections, and among these conditions is the necessity of good conduct and behavior in the candidate for elections, given that he represents the entire people and that he is the one who legislates laws and the road map that runs It has the wheel of life in the state. Therefore, he must have good morals and a good reputation, and be far from suspicions, as we find that the Iraqi legislator has stipulated that the candidate must meet a condition of good conduct and behavior in the House of Representatives Elections Law No. (45) of 2013, which was canceled in Article (8/Third) from it, and this condition was not stipulated in Law No. (9) of 2020 in force (Iraqi Parliament Elections Law of 2013). Based on the foregoing, a question arises in this regard: What is the ruling if the candidate for the elections was accused of a specific crime and nominated for the elections before a ruling was issued against him? Is the condition of good reputation considered met or not? In order to answer this question, it is necessary to explain the concept of good reputation and its importance, and then explain the breach of good reputation with criminal accusation and what is the effect of this accusation compared to the criminal judgment.

The First Requirement

Introducing Good Reputation and Its Importance

As we previously stated that the candidate for parliament must be of the highest degree of high moral character and be far from suspicion, given that he represents a supreme body in the state, which is the legislative body, and therefore we must explain what is meant by good reputation and what is its importance for the candidate for parliament in two branches. We deal in the first with the concept Good reputation In the second section, we discuss the importance of good reputation as a condition for a candidate for parliament.

First Part

Reputable Concept

When referring to the Constitution of the Republic of Iraq for the year 2005, as well as the Iraqi Parliament Elections Law No. (45) for the year 2013, which was canceled, as well as the valid Parliament Elections Law No. (9) for the year 2020, we find that it did not provide a comprehensive definition or concept that can be referred to know what is meant on good condition. Biography and behavior, as we can explain this trend of the Iraqi legislator, considering that the concept of good conduct and behavior (good reputation) contains non-specific and loose phrases, as it is difficult to give a comprehensive definition that prevents the concept of good reputation,

given that this matter is relative and varies from one society to another and in the same society it varies from time to time. Likewise, moral values differ from one era to another, and the reason for that is due to the development of life, which throws its delusion into many changes in the beliefs that were in place, and also creates new moral beliefs that did not exist before (Muhammad Al-Damasi, 1971), but some knew Hassan Reputation is a set of characteristics that must be available in a candidate for membership in parliaments, which appear through his daily work with individuals so that he is a source of trust within society (Dr. Afifi Kamel Afifi, 2002). According to the advanced concept, good reputation is considered a condition independent of non-conviction, as the submission of the non-conviction document has nothing to do with the condition of good reputation, since the submission of the non-conviction document is not considered evidence except for what it was prepared for only, which is the non-issuance of final judicial rulings with criminal penalties (Ibrahim Khalil, 2020). It should be noted here that the Ethics Committee of the Egyptian People's Assembly, in an attempt to define the concept of consideration and trust, whose loss entails the nullity of the validity of parliamentary membership. towards society, as this content is determined according to the circumstances of each incident and varies from one situation to another, and the matter is ultimately due to the need to verify the suitability of the person to carry out the task that he undertakes and advances it. The evaluation of a member of the People's Assembly is based on what he must possess of integrity, uprightness, avoiding suspicion and suspicion, and adhering to the rules of social behavior that reflect positively and negatively on his ability to advance his job, represent the nation, and contribute to carrying out the legislative and oversight function, as this evaluation does not depend on proving an incident. Rather, it includes all facts attributed to him in the present and the past (Muhammad Fahim, Usul, 1996).

Section Four

The Importance of Good Reputation as A Condition for A Candidate for Parliament

As many constitutions and laws stipulate that certain conditions must be met in the candidate for the elections, and among these conditions is the necessity of good conduct and behavior in the candidate for the elections, given that he represents the entire people and that he is the one who legislates the laws and the road map on which the wheel of life in the state goes. Therefore, he must have good morals. And a good reputation and to be far from suspicion, as some countries have spoken out in the requirement of good conduct and behavior in the candidate for parliament, including Iraq, where we find the Iraqi legislator has declared the need for a condition of good behavior and conduct in the Iraqi Parliament Elections Law No. 45 of 2013 (Elections Law Iraqi Parliament for the year 2013).), However, he did not explicitly refer to it in the new Law No. (9) of 2020, while we find that the Egyptian legislator referred to it implicitly in the Elections Law No. 38 of 1972. The dispute has been raised in the circles of jurisprudence between those who reject the condition of good reputation in assuming Membership in parliament and between a supporter of the condition of good reputation and not satisfied with the condition of

non-conviction, as the first trend denies this condition because its report is related to whether or not it is in the executive authority, which may use it as a means to exclude some deputies despite the availability of the condition of good conduct in them, and this leads to freeing the government's hand in manipulating seats Parliament. While the second trend went to the necessity of embracing the condition of good reputation in constitutions and ordinary legislation and following it, even without a text. They entered the parliament, and no judicial rulings were issued against them for crimes against honor, but they were involved in acts that violated the condition of good conduct, such as drug trafficking, dealing in public positions, and others (Adnan Uriel Obaid, 2019). Where we confirm what was confirmed by Dr. Adnan Ajil considering that the condition of good reputation preserves the dignity and prestige of the legislative councils, as well as providing the parliamentary councils with members who have a good reputation and integrity, and thus makes the parliaments carry out the tasks assigned to them.

The First Requirement

Violation of the Good Reputation of The Criminal Accusation and Its Effect Compared to The Criminal Judgment

Based on the principle of innocence in a person, as well as based on the legal rule (the accused is innocent until proven guilty), the following question arises: Does the good reputation of the candidate prejudice the mere accusation? What is the effect of this accusation on the candidate compared to the criminal ruling? For the purpose of answering these questions, we will deal with this topic in two branches. The first is the breach of good reputation by criminal accusation, and we deal with the effect of criminal accusation on the condition of good reputation compared to the criminal ruling.

First Branch

Breach of Good Reputation by Criminal Accusation

We have previously stated that the accusation is an emergency characteristic that a person can be described with after the availability of a set of evidence that appears to indicate his conviction, as the person in this case has not yet issued a final judicial ruling condemning him, but there is a set of evidence that prompts the judicial authorities to carry out research and investigation and infringement, even in a small amount, on the freedom of the person in order to obtain his punishment if his guilt is proven, and this means that the accusation as an emergency and temporary description of the person represents a transitional stage between two descriptions, one of which is proven without the other. . Based on this concept, a number of questions are raised here, including: What is the ruling if a person is accused of a specific crime? Is any charge against a person considered a breach of his reputation?

As it is known, there is a constitutional principle stipulating that the accused is innocent until proven guilty in a fair legal trial. It is not considered to have lost this condition by mere

accusation. However, in certain cases, and simply to accuse a person of a specific crime, this person is considered to have lost the condition of good conduct even if no judicial ruling was issued against him, provided that there is compelling and firm evidence that this person committed the crime he is accused of. This was confirmed by the Iraqi judiciary, where "...the Court of Cassation in the Supreme Judicial Council attributed its decision to "finally" exclude the deputy from the (S) and (P.S.) bloc from running in the parliamentary elections, to his "violation of the condition of good conduct," despite "The charge has not been proven against him."" (Judgment of the Court of Cassation of 2014). Likewise, the Judicial Authority for Elections clarified in one of its decisions related to the interpretation of the concept of good conduct No. (48 / Appeal / 2014 on 16/3/2014), in which it considered the mere indictment of the candidate on charges of embezzlement of public funds as a violation of the condition of good conduct, despite the lack of Proceeding him to be tried because he enjoys judicial immunity (published article). In Egypt, the Ethics Committee of the Egyptian People's Assembly confirmed that it is sufficient to prove the justifications for the loss of trust and consideration, issuance of a conclusive judgment of conviction in one of the incidents necessitating this loss, or the availability of very strong evidence or suspicions that throw a thick mislead of dubious doubts on the member (Muhammad Fahim, previous source). This indicates that good conduct has nothing to do with the judicial conviction. Rather, the mere exposure of the candidate to a serious accusation represented by the existence of a judicial complaint and his intentional failure to go to court to prove his innocence of the charge against him is a violation of the condition of good conduct, and also that the charges against him It must be related to his reputation, such as charges related to integrity or charges related to waste of public money, embezzlement, forgery, and other charges that prejudice a person's reputation and make him not trustworthy or respected by society. On our part, we believe that if the condition of good reputation is a necessary condition that must be met in a candidate for Parliament, then suspicions that are not based on solid evidence should not be considered. Has gone out of the origin of innocence to the circle of condemnation.

Section Five

The Effect of The Criminal Indictment on The Condition of Good Reputation Compared to The Penal Verdict

Before stating the effect of the criminal accusation on the condition of good reputation and comparing it with the effect of the criminal judgment, we must show that not everything that the person commits is considered a crime against good reputation, as the person's behavior may have the characteristics of a criminal crime and a crime against reputation such as bribery This behavior may include a criminal offense without a crime against reputation, and therefore each of the two offenses is independent of the other. If one of them affects the good reputation of the candidate for parliament, the other is not (Muhammad Al-Sayyid Al-Damasi, previous source), and when referring to the Iraqi legislator, we find that in Article (8/Third) of the repealed Iraqi Council of

Representatives Elections Law No. 45 of 2013 stipulates that (a candidate for membership of the Council of Representatives, in addition to the conditions that must be met by the voter, must: be of good conduct and not convicted of a crime involving honor) (House of Representatives Elections Law for the year 2013). Article (8) of the House of Representatives Elections Law No. (9) of 2020 in force stipulates that (a candidate for membership in the House of Representatives must meet the following: Third: He must not have been convicted of a felony or misdemeanor involving moral turpitude or has illegally enriched the calculation of public money by a final judicial ruling, even if it includes pardoning her....) (Iraqi Parliament Elections Law of 2020). As the meaning extracted from the two articles above refers to two facts, one of which is that the condition of good conduct in the repealed law came independent of the condition of not being convicted, and the second is that it is possible to exclude a candidate for elections simply because the condition of good conduct is not met without there being a judicial ruling for a crime involving moral turpitude and evidence for that. The legislator has attached this condition with the conjunction letter (and) to the non-conviction condition, and therefore these two conditions are considered independent of the other and do not complement each other (Dr. Adnan Uriel Obaid, previous source). As for the law in force, it did not refer to the condition of good conduct and behavior among the conditions that must be met by a candidate for the parliamentary elections, as this is considered a legislative deficiency.

We have previously stated that the criminal accusation that damages the reputation of the candidate for the elections before the verdict is issued against him must be based on firm and strong evidence of committing a crime that damages his reputation, and this was confirmed by the Iraqi judiciary (the judgment of the Court of Cassation for the year 2014), and when referring to the valid Iraqi Parliament elections law, we find It stipulated that the candidate not be convicted of a crime involving moral turpitude (Iraqi Parliament Elections Law of 2020). From the concept of violation, if the candidate for the elections was previously convicted of a crime against honor, here he is excluded from the elections, and based on the foregoing, we reach the conclusion that the effect of the criminal accusation based on firm and strong evidence against a person for committing a crime that defames his reputation and before a final judgment is issued on him leads to the same result. The consequence of the final criminal judgment of a crime of moral turpitude, which is the exclusion of the candidate from the elections, because the criminal accusation affects the reputation of the candidate for the elections and makes him lack of good conduct and behavior, and that the criminal judgment of a crime of moral turpitude makes the candidate lose a condition, which is that the candidate is not convicted of a crime of moral turpitude.

CONCLUSION

After we finished our research, which is tagged with (the effect of the criminal accusation on the candidate for the parliamentary elections), we reached a number of results and proposals, the most important of which are summarized as follows:

RESULTS

- 1- The Iraqi legislator did not know the accused, nor did he distinguish between him and the suspect, as he made both of them bear the status of an accused.
- 2- The criminal accusation that is a reason to prevent the candidate from running in the elections is an accusation that affects good reputation and is related to crimes against honor.
- 3- The accusation against the candidate excluded from the elections of committing a crime must be based on firm and strong evidence, as it is not possible to remove a person from the right to run for the mere accusation without evidence based on the constitutional principle (the accused is innocent until proven guilty).
- 4- The final criminal judgment issued against the person, as well as the accusation based on firm and strong evidence, must be subject to crimes against the person's reputation, such as crimes against honor, and not ordinary crimes, such as traffic crimes, for instance.
- 5- The effect of each of the final criminal judgment and the criminal accusation based on strong and proven evidence is the same, which is the exclusion of the candidate from the elections.

SUGGESTIONS

- 1- We suggest that Article (8/Third) of Parliament Elections Law No. (9) of 2020 be amended by adding to it that the candidate, in addition to his good reputation, should not be accused of a criminal offense against honor, as the text of the proposed article is as follows: (*A candidate for membership of the House of Representatives must, in addition to the conditions that must be met by a voter, the following: To be of good conduct and not convicted of a crime against honor and not accused of a crime against honor.*)
- 2- After amending the article, we propose that this article be in the core of the constitution, and that is to protect it from amendment so that these conditions are not in the hands of Parliament. It uses and amends them according to what is required by the interests of members, and dropping other conditions and residence when the electoral cycle approaches the end and in preparation for the next session.

REFERENCES

1. Abu Abdullah Muhammad bin Ahmed Al-Ansari Al-Qurtubi, Al-Jami' Ahkam Al-Qur'an, Dar Al-Kutub Al-Masria Press, 1937.
2. Performance Dictionary, The Comprehensive Arabic Dictionary, first edition, 1997.
3. Ahmed Bassiouni, Abu Al-Rous, the accused, Alexandria, Modern University Office, 2004.
4. Dr. Hassan El-Gendy, Principles of Islamic Procedures.
5. Our Professor, Dr. Adnan Uriel Obaid, In-depth Studies in the Constitution of the Republic of Iraq for the year 2005, first edition, Manshaat al-Maarif, Alexandria, 2019.
6. Dr. Afifi Kamel Afifi, Parliamentary Elections and Their Constitutional and Legal Guarantees, Dar Al Jameen, Cairo, 2002.
7. Muhammad Fahim, Principles of Parliamentary Work, Dar Al-Kutub, 1996, Kuwait.
8. Muhammad Magda, Part Three.
9. Muhammad al-Sayyid al-Damasi, assuming public office, Ph.D. thesis, Faculty of Law, Cairo University, 1971.
10. Hozan Hassan Al-Artushi, Guarantees of Constitutional Procedures for the Accused in the Primary Investigation Stage - A Comparative Study, Master Thesis, College of Law and Politics, University of Duhok, 2008.
11. Mr. Aad Hatif Jabbar, Guarantees of the Accused in Law and Sharia, a research submitted to the Ministry of Justice for promotion purposes, 1998.
12. An article entitled Good Conduct and Reputation (a condition for filling the position), published on the Internet on the website <http://www.alwasatnews.com/news>
13. Legal Adviser Ibrahim Khalil Lawyer in Cassation, Constitutional and Supreme Administrative Court Member of the Arab Lawyers Union Article published on the Internet <https://kenanaonline.com>
14. Article published on the Internet on the website <https://almadapaper.net>
15. Sixth: The Constitution of the Republic of Iraq for the year 2005.
16. Seventh / Laws
17. Iraqi Penal Code No. 111 of 1969, as amended.
18. Criminal Procedure Code No. 23 of 1971 amended.
19. Juvenile Welfare Law No. 76 of 1983, as amended.
20. Iraqi Council of Representatives Elections Law No. 45 of 2013 repealed.
21. Iraqi Parliament Elections Law No. (9) of 2020 in force.
22. Court of Cassation Decision No. 49 / a second expanded body / 1990, published in the Judiciary Magazine, the third and fourth issues, the forty-fifth year, 1990.
23. Court of Cassation ruling No. 46/2014 published on the page of the Republic of Iraq - Supreme Judicial Council on the website <https://www.hjc.iq/qview.1721>

24. The Universal Declaration of Human Rights of 1948.
25. The International Covenant on Civil and Political Rights of 1966.