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## Constitutional and criminal protection of the right to information privacy

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### Abstract

This right is related to the personal life, and infringing it could affect the interests of entire society and violates the basic conditions for its existence. Therefore, infringing this right is considered a violation of the constitution, as well as a criminally punishable crime. This right, in addition to being treated as constitutional, is protected in terms of criminal law. Constitutional protection is one of the basic safeguards for protecting the right to privacy. Constitutions have been intense to stipulate this right, but the constitutional legislator was dissatisfied with stipulating it, but rather he indicated guaranteeing and respecting this right and setting restrictions before the state authorities that limit their restriction of such a right. Since the right to information privacy is one of the basic human rights and stipulated in international conventions and national constitutions, the criminal legislator shall provide criminal protection by considering the violation of this right as a punishable crime.

**Keywords:** Information privacy, limitations, Criminal restrictions.

### INTRODUCTION

The right to privacy, as one of the basic constitutional rights of the human being, reflects each person's desire to have his own world of family and commercial interests. Therefore, the right to privacy occupied a special place alongside other personal rights in national constitutions as well as global declarations such as (the Universal Declaration of Human Rights 1948, the International Covenant on Civil and Political Rights of 1966 and other international declarations and conventions on human rights). Personal life as a manifestation of humanity is an independent value consisting of freedom from the interference of the state and other individuals in the personal life. This right represents an assessment of the level of society, the state legal development in respect of individuals' personal lives, and the reliability of safeguards against interfering it.

### RESEARCH IMPORTANCE:

The significance of the research lies in (the constitutional and criminal protection of the right to information privacy). This right is related to the personal life, and infringing it could affect the interests of society as a whole and violates the basic conditions for its existence. Therefore, infringing it is considered a violation of the constitution, as well as a criminally punishable crime. This right, in addition to being considered as a constitutional right, is protected in terms of criminal law. Infringing this right is a violation of the citizen's rights to preserve his personal secrets and his family. The mere constitutional recognition of a person's right to privacy is insufficient in applying it. In addition, it should be noted that the rules relating to the protection of privacy are not systematic and contradictory. Therefore, in addition to that, it requires the intervention of the criminal law to put in place a set of criminal measures to protect personal rights, foremost of which is the right to privacy.

### RESEARCH OBJECTIVES:

The research aims at:

- 1- Conducting a inclusive legal analysis of the constitutional and criminal bases to protect the right to information privacy.
- 2- Identifying the problems of legal regulation to protect the right to privacy and personal data.
- 3- Exposing the problems of implementing the safeguards for defending the right to information privacy.
- 4- Considering the issues of legitimate restrictions regarding the exercise of the right to privacy.

5- Making recommendations related to the constitutional and criminal protection of the right to information privacy.

### **RESEARCH PROBLEM:**

Researching into the constitutional and criminal protection of the right to information privacy poses many problems, including the difficulty of defining a concept of the right to privacy, as well as the difficulty of detecting violators of this right, especially in the Internet and social networking platforms, which have become an instrumental arena for committing crimes of infringing on personal life. This allows individuals to use fictitious and pseudonyms to register on these sites. Consequently, posting individual's personal information keeps them away from legal accountability due to the difficulty of accessing them.

### **RESEARCH METHODOLOGY:**

In the context of studying the right to privacy, the methodological analytical method was adopted for the constitutional and criminal texts that dealt with this right, in addition to the method of comparison with the constitutions and laws of some countries.

### **RESEARCH PLAN:**

This research was divided into two sections:

- 1- Constitutional protection of the right to information privacy.
- 2- Criminal protection of the right to information privacy.

## **CONSTITUTIONAL PROTECTION OF THE RIGHT TO INFORMATION PRIVACY**

This study was divided into three sections:

- 1- The concept of the right to privacy.
- 2- The constitutional regulation of the right to information privacy.
- 3- The constitutional restrictions on the right to information privacy.

### **THE CONCEPT OF THE RIGHT TO PRIVACY**

There is no clear concept of the right to privacy because of its flexibility and its effect upon advances in society, especially in the field of technology and communications. Getting into the world of the Internet and social networking sites and the vast development in modern information and communication technologies and their entry into all areas of life almost wiped out personal life. All this led to the difficulty of defining a comprehensive concept of this right, especially in the legal and judicial field. From a legislative point of view, there is no place for a full and precise definition of the right to privacy. This will lead to a difference in interpretation, expansion or restriction of this right. (Капрашов, 1999). In terms of jurisprudence, the jurists differed in defining the concept of the right to privacy. Russian jurisprudence defined it as (a set of complex relationships that contain material and moral values), while another viewed that the right to privacy (is a set of private areas that a person does not wish to disclose, including (family relations, freedom of religious belief, hobby, etc.)). (Капрашов, 1999)

As for the French jurisprudence, it adopted the idea that the idea of a personal life is related to the idea of freedom, as it was defined as (a set of cases, actions, and opinions issued by the individual freely that do not link him to any obligation to confront others). (Al-Zoubi, 2004). As for English jurisprudence, it defined it as (the authority of a person to make decisions that seem best to him in this part of his life and as a general freedom that includes many private freedoms, including material (such as physical freedom and freedom of movement) or moral (such as freedom of belief). The secrecy of personal life are interrelated because the practice of personal life creates a privacy content that gives it secrecy, and that secrecy may be a condition for the proper exercise of some liberties. (Gavinson, 1980) As for the American Law Institute, the right to privacy is defined as (the right of a person that his affairs and conditions do not come to other's knowledge, and that his image is not exposed to the public's attention). (Al-Mashaikhi, 2019) Regarding Egyptian jurisprudence, it defined the right to privacy as "respecting the personal life of every human being and preserving his secrets that others should not see without his permission. Life is not private unless there are opinions, behavior, and relationships that are free from the curiosity of others." (Mishaal, 2019). Through

the above definitions, it becomes clear that there are two sides to the concept of (the right to privacy), a negative side represented in the refraining of others from violating or assaulting this right, and a positive side represented by the state intervention to protect this right and taking the necessary measures aimed at ensuring respect for personal life. The components of this right include (the domicile inviolability, physical and mental integrity, freedom of correspondence and communication, personal freedom, and personal and family secrets).

## **CONSTITUTIONAL REGULATION OF THE RIGHT TO INFORMATION PRIVACY**

Constitutional protection is one of the vital safeguards for protecting the right to privacy. Constitutions have been intense to stipulate this right. However, the constitutional legislator was dissatisfied with stipulating it, but rather indicated guaranteeing and respecting this right and setting restrictions before the state authorities that limit their restriction of this right, in addition to a set of guarantees that ensure respect for this right. Some of these guarantees are (the principle of equality, the principle of legality, as well as the principle of judicial oversight). (Moloukhia, 2012) According to the principle of legality, the state, with its authorities and individuals, is subject to the provisions of the law, and it is not allowed to deviate from it. It has no right to violate or restrict the right to privacy except within the limits of the law. As for judicial oversight, it means the intervention of the judiciary to prevent the issuance of any law or decision outside the limits of the law by other authorities that violate the right to privacy. The objective of this oversight is to ensure respect for all legal rules by all authorities, starting from the constitutional rules to all other laws. (Al-Harf, 1994). Based on the foregoing, national constitutions include the right to information privacy as one of the basic human rights. One of the constitutions that stipulate this right is the constitution of the Russian Federation of 1990, where it says in Article (23) of it: "Everyone has the right to the inviolability of his personal life, personal and family secrets, and the protection of his honor and reputation.

Everyone has the right to the privacy of messaging, telephone conversations, postal and telegram correspondence, and so on. Restricting this right is not allowed unless there is a court decision. We note that the Russian constitution stipulates this right and does not grant the authority to restrict this right except to the judiciary. As for the constitution of the United States of America, this constitution did not protect the right to privacy until after the issuance of the 4<sup>th</sup> Amendment in 1791. This amendment stipulated that the right of people to be safe in their person, homes, documents and possessions from any search or detention without justification may not be violated. This right may not be infringed except in the case of a reasonable cause supported by oath and certainty, indicating the place to be searched and the persons or things to be seized. Regarding the French constitution of 1958, it is clear that there is no provision for the right to privacy in this constitution. The French legislator has dedicated Article (9) of the Civil Code to stipulate this right, in addition to the jurisprudence of the Constitutional Council, which is considered a supervisory body on the constitutionality of laws and the non-contravention of laws to the constitution, as the right to privacy is considered among the individuals' rights and freedoms. Additionally, the Medical Confidentiality Law No. 303 of 2002 was issued, which stipulated the confidentiality of patient information and gave only the patient the right to use medical information. It also provides for a set of penalties in case of breach of this confidentiality by any person. This law also gave the patient the right not to pass on medical information to his heirs after his death.

As for the Egyptian constitution 2014, it stipulates this right in Article 57, where it says: "personal life is inviolable and is protected. Postal, telegraphic and electronic correspondence, telephone conversations and other means of communication are inviolable and their confidentiality is guaranteed where they may not be confiscated, accessed, or censored." Except by a reasoned judicial order and for a specified period in the cases indicated by the law). In addition, Article 58 stipulates the inviolability of the home and the prohibition of getting into it and search except in cases of vulnerability or integrity. It was also prohibited to monitor or wiretap homes unless there is a causal judicial order specifying the location, timing and purpose of the surveillance. In addition to the constitutional texts, Press Law No. 96 of 1996 stipulates that it is impermissible for a journalist or others to violate the personal lives of citizens. Publishing anything related to the citizen's personal life is a crime punishable by law. As to the Iraqi constitution 2005, it dealt with the right to privacy in Article (17), where it stipulated (1: Every individual has the right to personal privacy in a way that does not conflict with the rights of others and morals. Second: The domicile inviolability is protected, where they should not be entered, searched, or disturbed except by a judicial decision and in accordance with the law. We note that the Iraqi constitutional legislator stipulated the right to privacy and considered only the domicile inviolability as one of the components of this right. As for the right to messaging and communications, it is a right independent of the right to privacy, and the evidence for this is

the text of the right to privacy and the domicile inviolability in Article (17) within section One of Chapter Two (Rights). As for (freedom of messaging and communication), it is stipulated in Article (40) within Chapter Two of Chapter Two (Liberties). What is taken against the Iraqi constitutional legislator did not mention the phrase (except by a reasoned judicial decision), as he was supposed to mention it so that he would not release the hand of the judiciary in this aspect. As for the Journalists Syndicate Law, it stipulates in Article (25) that (it is impermissible for a syndicate member to infringe on the private and public liberties stipulated by the law by means of the press). The Iraqi Publications Law No. 53 of 1964 also stipulated in Article (26) that it is impermissible to publish anything that harms the dignity and personal freedoms of people, or that it includes disclosing a secret that would harm a person's wealth, reputation, or trade name. Based on the aforementioned, it becomes clear that the right to privacy is one of the basic rights of individuals that are constitutionally guaranteed, whether it is expressly or implicitly stipulated. This right cannot be restricted except by virtue of a judicial order stating the reason for the restriction and within the limits stipulated by the law.

## **CONSTITUTIONAL LIMITATIONS ON THE RIGHT TO INFORMATION PRIVACY**

Although the constitutional texts and laws guarantee the right to privacy of information, it is not an absolute right, but rather a set of restrictions. Under such restrictions, people or government agencies can access personal secrets or enter the house without the permission of the owner of the house for reasons that may be security, such as arresting a criminal or protecting public health, and so on. These restrictions may be voluntary restrictions due to the will of the right holder to allow others to see the personal life of the individual, and they may be legal restrictions established for the benefit of the citizen, society or the state. (Al-Shamary, 2018)

The constitution empowered the legislator to regulate the right for the purpose of enabling all citizens to exercise freedom to the utmost extent and so that every individual's use of his freedom does not conflict with the freedoms of others. Therefore, the legislator, while regulating this right, must be careful not to confiscate it or waste it. This means that the legislator must abide by the democratic principle approved by the constitution, which is to guarantee freedom, not to waste it or confiscate it. Therefore, the legislator must regulate the right to privacy, because leaving this right without obstacles or restrictions leads to chaos in society and instability, and consequently the right to lose its main desired purpose. Based on the foregoing, states, in addition to ensuring the right to information privacy, have issued laws that allow the violation of this right if it is intended to protect society and state security. One of these restrictions on the right to privacy is what is stipulated in the Egyptian Telecommunications Law in Article (64) whereby telecom service providers are required to provide the National Security Agency with all the technical capabilities that allow these authorities to exercise their competencies in accordance with the law. In addition, among the restrictions is what was stipulated in the Egyptian Emergency Law No. 62 of 1958 in Article (Third) regarding the right of the President of the Republic. If the emergency is declared, to order the monitoring of messages, whatever they are, as well as the search of persons and places without being bound by the provisions of the Code of Criminal Procedure, despite the opposition of these procedures to the constitution of the Arab Republic of Egypt for the year 2014. However, it represents a restriction on the right to privacy. (Al-Husseini, 2019)

In addition to the legal texts, there is another type of restrictions, which are voluntary restrictions. Based on these restrictions, the right to privacy may be infringed upon with the consent of the right holder. It is not required to rise to the rank of the mutual obligations constituting the contract. The mere presence of consent, which is usually a form of tolerance and courtesy that allows for the infringement of privacy. (Al-Jubouri, 2004)

## **CRIMINAL PROTECTION OF THE RIGHT TO INFORMATION PRIVACY**

This study was divided into two sections:

- 1- The criminal responsibility for violating the right to information privacy.
- 2- The criminal restrictions on the right to information privacy.

## **CRIMINAL LIABILITY FOR VIOLATING THE RIGHT TO INFORMATION PRIVACY**

Since the right to information privacy is one of the basic human rights and is stipulated in international conventions and national constitutions, the criminal legislator must provide criminal protection by considering the violation of this right a punishable crime. This is what was stipulated in Article (438) of the amended Iraqi Penal Code No. 111 of 1969, which stipulates that (he (the offender) shall be punished by imprisonment for a period not exceeding one year and a fine not exceeding one hundred dinars, or by one of these two penalties).

1- Whoever publishes by any means of publicity news, pictures or comments related to the secrets of the individual's personal or family life, even if it is true, when publishing it would offend them shall be punished.

2- Punishing any person who, other than those mentioned in Article 328, has access to a message, telegram, or phone call and discloses it to someone other than the person to whom it was addressed, if that would cause harm to anyone. Since the violation of privacy is considered a crime, the elements of the crime must be fulfilled, which is the material and moral element.

### **MATERIAL ELEMENT**

The material element is represented by the material and immaterial external appearance, as there is no crime without certain material things. The importance of the material element of the crime lies in the evidence, as it is easy to prove materiality. It also shows its importance in protecting individuals from the abuse of public authorities, as they cannot be punished unless they commit material behavior. The material element is based on three bases (criminal behavior, consequence, and causation). (Al-Haidari, 2017) First: Criminal behavior: The Iraqi legislator defined criminal behavior in Article (19/4) of the Penal Code as (every behavior that is criminalized by the law, whether positive or negative, such as abandonment and abstinence, unless there is a text to the contrary). Through the text of Article (438) of the Penal Code, it is clear that the criminal behavior required in the crime of privacy violation varies according to the image of the right to privacy. The right to privacy includes (the right to the domicile inviolability, the right to messaging and communications, the right to personal secrets, whether related to his personal health, financial and employment status or related to his family's secrets, and the right to image) as follows:-

#### **1- The right to domicile inviolability:**

The criminal behavior consists of violating the sanctity of the house by entering it without the permission of its owner, using the house to hide from the eyes of those who have the right to get him/her out from it, or refraining from leaving the house after entering it legally. Thus, it becomes clear that the criminal behavior of violating the domicile may be a positive behavior represented by entering the home illegally, that is, without the permission of its owner. It may be a negative behavior represented by the offender's refusal to leave the house after entering in a lawful manner. This crime is one of the crimes that depends on a complaint from the owner of the house according to the text of Article (3/5) of the amended Criminal Procedure Code No. 23 of 1971. That is, this crime is a crime of personal right, where the victim is not entitled to move it after passing three months from the date of knowing the violation of his home (Criminal Procedure Code/Article 5).

3- The right to confidentiality of information: The criminal behavior of violating the right to confidentiality of information is to divulge these secrets, whether the secrets are related to his private or family life, or related to his financial or health status. All this information is considered secrets related to the personal life of the individual, and its disclosure and publication is considered a violation of this right if it is done without the consent of the owner of the secret. So, the criminal behavior by disclosing the secret and it is intended to inform others of it in any way whatsoever, and by others means any person whom the victim does not wish to know his personal secrets. (Obaid, n.d.).

Disclosing the secrets may be through a person who is entrusted with them because of his profession, such as a doctor who publishes information about an individual's health status, or it may be through an employee in a bank who discloses an individual's secrets about the person's financial status and bank accounts. The legislator stipulated that the personal secret should not be disclosed by publishing in one of the public ways. Publicity means (committing actions or words or disclosing them to the public. (Sultan, 2010).

It is everything that a person do in front of the public. The ways of publicity defined by the Iraqi legislator in Article (19/3) of the Penal Code are (acts or signs if they occur in a public way, or saying and shouting if they happen). Speaking out or repeating it in a public place, publishing in the press and publications, writing, drawings, pictures, badges and films). The crime is realized in any of the ways indicated if it leads to disclosing a secret related to the citizen's personal life. Thus, it becomes clear that the criminal behavior is in violation of privacy by disclosing personal secrets. It is a positive behavior. This crime cannot be committed by passive behavior by abandonment or refusal.

4- Violation of the sanctity of messaging and communications: It means (to maintain the confidentiality of the persons' messages, telegram and telephone communications, and not to be viewed by any party except in accordance with the law. (Al-Rawi, 1999). It represents the criminal behavior of violating the sanctity of messaging or communications by opening the letter or telegram. This is done by removing any material obstacle placed by the sender to preserve the message and the telegram. (Abul-Malik, 1976).

Then, the criminal behavior is represented in the sanctity of messaging and communications by positive and negative behavior. The positive behavior is the offender's organic actions represented in opening the message, viewing it, or tapping the phone calls. As for the negative behavior, it includes the offender's refusal to deliver a message to a person who is forced by law. It must be handed over to its owner, such as a postal employee. So, the criminalization texts must include what would provide criminal protection for the person in exercising his right to confidentiality of his personal communications and prevent others from intrusion into his private spaces, whether that third party is an individual or an authority. (Al-Qassa, 2020)

4- Violation of the right to the image: the image means (representing in a specific form on a fixed object such as paper or wood and the like so that the appearance of the figure is fixed as it was embodied in the beginning. This work can be done by multiple means or by using automated means such as a camera. (Aliwy, 2009). The criminal behavior is represented in violating the right to the image by publishing pictures of people in any way publicly to the public, whether this was done by publishing in newspapers or publishing them on social networking sites or any method so that the image reaches people without the consent of the owner of the image, whether the image is for an individual or for one of the individuals his family.

Second: The criminal consequence: What is meant by the criminal consequence is the effect of the criminal act that is punishable by law, or it is a material phenomenon that symbolizes the change that takes place in the outside world. (Al-Hadithi, 2017). The legislator has expressed the criminal consequence of violating the right to privacy by violating personal life, i.e. intrusion or infringing it. This is done by removing the private content from the confidential domain to the public one, where it has become accessible to people who do not want the right holder to do so. (Al-Zoubi, 2021). This crime is considered one of the formal crimes that require the result to be obtained. If the result does not occur, i.e. the access of private information, secrets and other forms of violation of the right to privacy to others, then it is not a final crime. This crime is one of the crimes that do not have an intention to do it in which it either happens or not. If the perpetrator wanted to post a picture of a person on social media, and suddenly the electronic device malfunctioned, then an attempted breach of privacy is not penalized.

Third: The causal relationship: it means the causal link between the act and the criminal result, as it represents the link between the cause and the cause. Accordingly, talking about the causal relationship assumes the occurrence of the action and the result together. (Al-Haidary, 2019). Therefore, the publication of information relating to personal life must be the result of the offender's act. There must be a causal relationship between the act and the criminal consequence. However, if a foreign cause interferes with the publication of private information, this will lead to the interruption of the causal relationship and thus the criminal responsibility will be left behind.

## **THE MORAL ELEMENT**

The crime of violating the privacy of information is a deliberate crime that requires criminal intent and cannot be committed by mistake. Criminal intent is the offender's will is directed to the criminal behavior and to the consequences of the crime. For this reason, it requires that the offender possess the two elements of the general criminal intent (knowledge and will) knowledge of the criminal behavior, whether it is an act or omission. For every incident that gives it criminal significance, knowledge of the result and a desire to commit criminal behavior and the consequences thereof. (Aziz, 2017)

Through the aforementioned, the offender must have knowledge that he is violating other's privacy. That is, he knows, for example, that the house he entered without the permission of its owner does not belong to him and he is not entitled to enter it without the permission of its owner, or that the secret he disclosed and published is a personal secret and he is not entitled to publish it. So are the rest of the privacy photos. If he is ignorant of that, then in this case it leads to the absence of knowledge and consequently the absence of criminal intent, such as someone who enters a house by mistake, believing that it is his house or his wife's house and has the right to enter it, or whoever discloses a secret and believes that people are aware of this secret, then it becomes clear otherwise. In addition to knowledge, the offender must have an intention, i.e. his intention is directed to committing the act and the result to be achieved. If he was forced to do so, then this compulsion leads to the absence of the intention and the criminal intent. For example, threatening a doctor by killing if he does not inform him of the health information related to one of his patients. The legislator stipulated that for the crime to be investigated, violating the privacy of the individual, especially with regard to disclosing the secrets of the individual and their family, would lead to harm to them and their reputation in their community, or to harm them as a result of viewing messages or telegrams or wiretapping, whether the damage was material or moral.

### **CRIMINAL RESTRICTIONS ON THE RIGHT TO INFORMATION PRIVACY**

Certainly, the right to information privacy is not absolute, but rather it is a set of restrictions must respond to it, otherwise the right of society in a safe and stable environment should be disrupted. Therefore, the restrictions achieve a balance between the life of the individual and the life of the group, and formulate the basic requirements for living in them, especially the right of society to prevent any violation of the right to privacy. (Al-Mashaikhi, 2019). Therefore, the legislator who guarantees the right to privacy at the same time must set restrictions on this right if the purpose of these restrictions is to combat crime or protect public health and the safety of citizens. This is what is called (reasons of permissibility), which means (restrictions on the text of the incrimination, which lead to its non-implementation in certain circumstances. (Al-Haidary, 2010). Therefore, committing a crime violating the privacy of the individual if the purpose of it is to perform a duty or prevent committing a crime or otherwise leads to the exit of the act from The framework of forbidden acts to the framework of permissible acts. Among these restrictions is what was stipulated in Article (39) of the Iraqi Penal Code, which stipulates (no crime if the act is committed in fulfillment of a duty imposed by law). The doctor is obligated to keep the secret of his patient and it is not allowed to divulge it, but the law sometimes requires the doctor to reveal this secret to the concerned authorities when the patient is afflicted with an infectious disease so that the authorities take the necessary measures to prevent the spread of this disease, or if the patient suffers from severe bleeding as a result of an abortion. The doctor can reveal the secret if the purpose is to inform about a rape. (Al-Hadithi, 2017).

Also, the right to the sanctity of the home is subjected to a violation in some cases and is not criminally liable in this case, because the domicile inviolability is guaranteed except within the limits specified by law. The Code of Criminal Procedure No. 23 of 1971 permits the investigative judge in Article (74-76) to search homes if the owner of the house is accused of a crime or to search for stolen items. Also, Article (70) of the same law permits the investigating judge or investigator to compel the accused or the victim of a felony or misdemeanor to enable him to examine his body and take his photogram, the look of his fingers, a little of his blood, hair, nails, or other things that are useful to the investigation to conduct the necessary investigation. So, the right to privacy is a restricted and not absolute right. Some of the basic limitations are:

- 1- Permissibility of inviolability of domicile if its purpose is to search for criminals wanted for justice or to search for stolen goods, or in the case of seeking help from those inside it, or if there is a fire or drowning or the like in cases of necessity.
- 2- It is permissible to reveal the body of a person accused of a felony or misdemeanor, and to take a picture, fingerprint, or a little of his blood or hair, or the like, against his will, if that is for the purpose of completing the investigation procedures in a crime.
- 3- The necessity of revealing personal secrets by those who are entrusted with him, such as (the doctor, the lawyer, and others). If its purpose is to inform about a crime that has occurred, or if the purpose is to prevent the spread of an infectious disease in the community, but the disclosure of secrets must be to the competent authorities only and not to the general public.
- 4- It is permissible to monitor calls and record conversations, even if they take place in a private place, if their purpose is to reveal the truth.
- 5- Based on the aforementioned, violating an individual's privacy is a punishable crime, except in the cases mentioned above, provided that the perpetrator is in good faith. He does not intend to offend or harm others, and that his transgression is on personal life for the purpose of the public interest.

## CONCLUSION

The study has reached the following conclusions and recommendations:

### First: Results:

- 1- There is a lack of a comprehensive and accurate definition of the right to privacy, due to the flexibility, relativity and difference of this right among individuals.
- 2- The right to privacy is one of the basic human rights protected by state charters and national constitutions, and by criminal laws.
- 3- The Iraqi constitution 2005 did not include any text related to the privacy of information, especially since the information of the individual has become written in the health and financial records or in the Directorate of Nationality and Civil Status or the Directorate of Passports.
- 4- The Iraqi laws did not provide sufficient protection for individuals with regard to the privacy of information, especially in the era of technological development, where private and family information has become written on mobile phones and personal computers, especially Iraq lacks a law dealing with electronic crimes.
- 5- The criminal law guarantees the protection of the right to privacy of information and criminally responsible for anyone who violates this right without legal justification.
- 6- The right to information privacy is a restricted and not absolute right. It is restricted not to violate public morals and not to conflict with the rights of others in addition to criminal restrictions. There is no privacy if its purpose is to prevent committing a crime, protect public health and safety, search for wanted persons for justice, or reach the truth through criminal investigation.

### Second: Recommendations:

- 1- Legislating a law related to electronic crimes, especially after many cases of extortion that individuals are exposed to due to the theft of the contents of their electronic devices, such as messages, pictures, or others.
- 2- Amending the Iraqi constitution by including the privacy of information within Article (17) of it, which relates to the right to privacy, because the information of people has become accessible to the state officials, especially health records or the departments of nationality and passports.
- 3- The penalty in the event that the disclosure of the information is in cases other than those specified by law and leads to harm to an entire family should be severe.
- 4- Providing clear and accurate restrictions related to the right to privacy of information and not leaving it to personal judgments, especially by men of authority.

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