

The crime of destroying and sabotaging ships and aircraft under Iraqi and Emirati law

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Abstract:

This research aims to study the crime of destroying and sabotaging ships and aircraft under Iraqi and Emirati law. It is any intentional act aimed at damaging or disrupting a situation that endangers lives, property, or the safety of public transportation. This includes direct action, attempt, participation, and incitement. The research is based on an original question: What is the position of Iraqi and Emirati law on this crime? The research relied on a descriptive, analytical, and comparative approach by analyzing Iraqi and Emirati legal texts and comparing them with relevant international provisions. The results concluded that the Iraqi Penal Code No. 111 of 1969 includes general provisions (Articles 341 and following, particularly 354–359) that criminalize endangering means of transportation and public facilities and increase the penalty to life imprisonment or the death penalty in the event of a death or disaster. However, this remains within a traditional framework that requires updating to keep pace with technological developments and international standards. UAE legislation combines the provisions of the Federal Penal Code with special laws such as Anti-Terrorism Law No. 7 of 2014 and the Aviation and Navigation Security Regulations, providing comprehensive coverage of terrorist or cross-border incidents. Both legislation criminalizes these acts and considers them serious crimes, imposing harsher penalties if they result in death or serious damage. However, UAE law appears more detailed and influenced by international agreements, while Iraqi law is content with a general framework for the protection of public facilities and means of transportation. The study recommends updating legislation to keep pace with technological developments and activating international and regional cooperation to address the cross-border nature of these crimes. It also recommends focusing on preventative measures and more clearly integrating international agreements into national laws...

Keywords: Demolition, Ship and Aircraft Sabotage, Disturbance of Public Order, Iraqi Law, UAE Law.

INTRODUCTION

Crimes against air and sea transport are among the most serious crimes threatening public security and the national economy, given the strategic importance of ships and aircraft in international trade, civil transport, and communication between peoples. These means of transport are not merely ordinary physical property, but rather a fundamental pillar of the state's infrastructure and a vital tool for its political and economic stability. Recognizing the gravity of these acts, the Iraqi and Emirati legislatures have given considerable attention to regulating the crime of destroying ships and aircraft, establishing strict penalties to ensure the protection of these means from any attack or sabotage. In Iraqi law, these crimes are regulated within the provisions of the Penal Code No. 111 of 1969, as amended, where the legislature established specific provisions aimed at protecting air and sea transport from any act that leads to its destruction, disruption, or endangers the lives of passengers and public property. In the United Arab Emirates, Federal Penal Code No. 3 of 1987 addresses these crimes with clear provisions that highlight the UAE legislator's strictness in protecting vital means of transportation, especially since aircraft and ships are directly linked to the national economy and national security. The research problem lies in determining the adequacy of the legal texts in..

both Iraq and the UAE to address the crime of sabotaging and destroying ships and aircraft, considering it a transnational crime. The compatibility of these laws with relevant international conventions and their effectiveness in achieving general and specific deterrence are also examined. Furthermore, the research explores the similarities and differences in how the two legal systems address this crime. The importance of this research lies in highlighting the seriousness of the crime of sabotaging ships and aircraft to the security of the state and the international community, and in demonstrating its repercussions on lives and property. Its significance is also evident in analyzing the position of Iraqi and Emirati legislation and comparing it with international standards to determine its effectiveness in combating this crime. This research aims to clarify the legal basis for the crime of sabotaging ships and aircraft in both Iraqi and Emirati law. This is achieved through an analysis of relevant legislative texts and an explanation of the elements constituting this crime, highlighting the criminal policies adopted by each legislature in criminalizing and punishing acts that threaten the safety and security of maritime and air transport. The methodology employed in this research is comparative and descriptive-analytical, through an analysis of the legal texts related to the crime of sabotaging ships and aircraft in Iraqi and Emirati law, comparing them to reveal similarities and differences and evaluating their effectiveness in providing criminal protection.

Section One: Conceptual Framework and Historical Development

The crime of sabotaging ships and aircraft is considered one of the most serious crimes affecting public security and international safety, due to its direct impact on lives and property. First Requirement: The Concept of the Crime of Demolition and Sabotage of Ships, Aircraft, and Similar Crimes

The concept of the crime of demolition and sabotage of ships and aircraft represents one of the modern forms of crimes affecting the safety of means of transportation. These acts aim to deliberately damage air and sea transport, leading to their destruction, disruption, or endangering the lives of passengers and the safety of navigation.

Section One - The Concept of the Crime of Demolition and Sabotage of Ships and Aircraft

Crime: plural of crime, a noun derived from the root meaning transgression, sin, and guilt. Demolition, linguistically, is the opposite of construction. To demolish is to destroy. The phrase "they demolished their houses" is an intensive form indicating multiplicity. Demolition means removing mud bricks, i.e., houses. Sabotage, linguistically, is derived from the root meaning ruin, the opposite of construction. The plural is ruins, and a ruin is a place of destruction. Sabotage is demolition.

In its penal sense, a crime is understood as any act that constitutes a breach of societal order and security, as defined by law. The law specifies the acts that constitute crimes and prescribes appropriate penalties. Demolition refers to the physical act of removing existing buildings, columns, or towers. Demolition may be total, leading to the complete removal of what has been erected. The act of demolition can be conceived as the perpetrator using tools such as picks, axes, or any other hand tool that fulfills the required purpose, or as the use of mechanical equipment like bulldozers, cranes, or any other machine that generates power to demolish a building. Sabotage is defined as any act that prevents something from performing its intended function or from being fully utilized, such as sabotaging an aircraft engine, and other acts that fall under this concept. The Iraqi legislator defined aircraft in the Civil Aviation Law No. 148 of 1974, Article 1, as "any machine capable of sustaining its flight through the non-reflective forces of the air from the Earth's surface, including all aerial vehicles such as balloons, airships, and fixed-wing and rotary-wing aircraft." The Iraqi legislator also defined a ship in the Seafarers' Identity Law No. 51 of 2015, Article (5/1), as "a floating vessel that traverses the high seas."

Section Two: Similar Crimes

First: Distinguishing the Crime of Demolition and Sabotage from the Crime of Embezzlement: The act of embezzlement constitutes a crime of aggression against public funds. While this aggression may differ in form, method, and style, its essence remains the same. It may consist of one or more individuals unjustly appropriating benefits or misusing public funds, exposing them to damage and loss. From this article, we can say that embezzlement is the act of disposing of something as if it were one's own, implying that the employee owns or possesses it completely, thus allowing him to dispose of the money entrusted to him in any way. In doing so, he transforms incomplete possession into complete possession. Even more serious is the fact that the crime of embezzling public funds is not a common crime committed by just anyone, but rather by those with knowledge, experience, and a certain level of education and expertise, which enables..

The first requirement – the legal element: The legal element in the crime of destroying and sabotaging ships and aircraft is the legal basis upon which the authority to punish rests. It requires an explicit legal provision criminalizing the act and classifying it as a punishable offense, in accordance with the principle of

legality in criminal law.

The legal element in the crime of destroying and sabotaging ships and aircraft is the legal basis upon which the authority to punish rests. Section One: Iraqi Law: While various legal definitions of maritime piracy exist, most agree that it encompasses any unlawful act of

violence committed on the high seas by a private vessel against another vessel, with the intent of seizing or plundering it. This act constitutes a crime punishable by law. The Iraqi legislator addressed the crime of maritime piracy within the Penal Code No. (111) of 1969, in Chapter Three dedicated to crimes against the safety of transport and means of communication, specifically in Articles (345-346 et seq.). The same provision applies in Article (355) if the act is directed at an airport, bridge, or railway. Article 358 of the same law addresses the deliberate disruption of any means of public transport, whether land, sea, or air, stipulating that the perpetrator of this act shall be punished by imprisonment for a period not exceeding seven years, or by detention and a fine. This indicates that the Iraqi legislator granted the judge discretionary power in classifying the criminal act, as it can be considered a felony if accompanied by a prison sentence, or a misdemeanor if... It is punishable by imprisonment and a fine. However, Article 13 of the current Iraqi Penal Code No. 111 of 1969 refers to universal jurisdiction and affirms the applicability of this law to anyone who commits an act that leads to the sabotage or disruption of intelligence and communication systems.

It is noteworthy that Iraqi law falls within the category of legislation that does not explicitly stipulate a penalty for the crime of unlawful interference with civil aircraft. Although the Iraqi Civil Aviation Law addresses the crime of aircraft hijacking in Article 180/1, paragraph 2, it does not specify the criminal penalty for this act, merely referring to civil penalties. Hijacking, which is also considered a form of sabotage, may constitute one of the acts constituting the crime of unlawful seizure of a civil aircraft. This includes theft accompanied by coercion or threats thereof, or the objective of the criminal act may be to obtain substantial sums of money from airlines as ransom in exchange for the release of passengers and crew. Since the seizure of an aircraft is intentional and carried out by coercion or threats thereof, and since an aircraft is movable property belonging to another party; The perpetrator is punished by death for theft committed with the threat of coercion, knowing that in addition to stealing the plane, the hijacker may also rob the passengers. Article 421 of the Iraqi Penal Code No. 111 of 1969 stipulates that "whoever arrests, detains, or deprives a person of their liberty by any means whatsoever without an order from a competent authority, except in cases permitted by laws and regulations, shall be punished by imprisonment." The penalty has been increased to life imprisonment if the act is committed by threatening the person with death or subjecting them to coercion.

Section Two: The UAE Penal Code

Sabotage of ships and aircraft falls under the category of crimes affecting the safety of transportation and communications. The UAE Federal Penal Code No. 3 of 1987 and its amendments address this by criminalizing acts that threaten or endanger the safety of public transportation, whether land, sea, or air. Article 339 of the UAE Penal Code criminalizes acts that endanger means of transportation, including aircraft. It is considered an aggravated crime for any person to commit acts of sabotage, violence, or intentional damage inside an aircraft, whether in flight or on the ground, if such acts threaten the safety of the aircraft or its passengers or disrupt its operational capabilities. Furthermore, the law stipulates that the penalty is increased accordingly. The penalty applies if the perpetrator carries a weapon or explosives on board the aircraft, or attempts to change its course or seize control of it by violent means. As for ships, the Penal Code also addresses this within the framework of endangering the safety of a means of public transport, whenever this means of transport is accompanied by the presence of people on board or the transport of vital materials. According to Article 158, any act that leads to the sinking of a ship, the destruction of part of it, or the disabling of its navigational equipment is considered a crime.

Crimes of sabotage against ships and aircraft are considered intentional crimes that require the presence of general criminal intent, meaning that the perpetrator intends, through his act, to harm the safety of the means of transport, obstruct its function, or endanger the lives of those on board. A specific result, such as death, is not required for the crime to be established; it is sufficient that the act leads to a potential danger to the means of transport or those on board. Penalties can reach life imprisonment and are doubled if the act is accompanied by aggravating circumstances, such as the presence of terrorist intent or the use of explosives.

Second Requirement: The Material Element

The material element in the crime of sabotage and destruction of ships Aircraft represent the visible and tangible aspect of criminal conduct, manifested in the act or acts committed by the perpetrator that lead

to damage to the safety of these means of transport or their inability to perform their functions.

First Branch: Conduct

Conduct is defined as voluntary behavior, the elements of which are conduct and will. Conduct encompasses all actions performed by a person, including both positive and negative behavior. The second element is will, a conscious psychological force that controls the conduct of its possessor, meaning it controls the means a person uses to achieve a specific goal. Furthermore, will is the cause of the act; an act cannot exist in the eyes of the law unless it stems from will. Positive criminal activity is realized when it is embodied in voluntary, organic movements performed by the perpetrator with the aim of producing a legally punishable result. The Iraqi legislator addressed this type of conduct in Article (354) of the current Iraqi Penal Code, which criminalizes intentionally endangering the safety of any means of air or water transport. This text is considered one of the clearest applications of positive criminal conduct in the field of aviation and maritime navigation. Positive conduct also appears in Article (356) of the same law, when it stipulated First Branch: The Original Penalty

The Iraqi legislator has criminalized any act committed by any person that is likely to harm the public interest, thereby damaging or obstructing the operation of public facilities during wartime or during military operations and the achievement of public benefit, according to Article (174) of the Iraqi Penal Code. The penalty is increased to temporary imprisonment if the perpetrator commits the act intentionally or through fraud in the execution of such contracts. However, if the fraud or breach is intended to cause harm to military operations or the defense of the country, the penalty is death, due to the serious repercussions of such acts on the stability and security of the state. It should also be noted that the first paragraph of Article (197) of the Iraqi Penal Code clearly criminalizes any act that is likely to damage, sabotage, or destroy public facilities and prevent them from providing their public services to society. Furthermore, the legislator has mentioned property as an example, not an exhaustive list; that is, these provisions can be applied to any demolition, damage, or destruction of any institution or facility belonging to the state, whether the facility is industrial, service-oriented, commercial, or economic. Articles (351-361) of the Iraqi Penal Code also stipulate the criminalization of attacks on public facilities, as Articles (352 and 353) refer to the criminalization of any act that would cause damage to pipes, machines or devices belonging to electricity, gas or water facilities, because it represents an attack on public facilities, disrupting and sabotaging them and thus preventing them from regularly providing public service. As for Article (351) of the Iraqi Penal Code, this article stipulated that for the crime to be established, the perpetrator's act must result in the water becoming unfit for drinking, even if it is suitable for irrigating crops, because if the water is unfit for drinking and the perpetrator's act would pollute it, as if it were irrigation water for irrigating a garden, for example, then the perpetrator cannot be punished here according to this article. Articles (354-361) of the Iraqi Penal Code criminalize any attack on means of transport and communication, and others, considering that attacking them is considered to be of the same kind or part of the form of destruction or sabotage of public facilities. Therefore, the Iraqi legislator decided to punish any act that would cause disruption or damage to any means of transport or communication with imprisonment and a fine. The legislator also increased the punishment in the case of using explosives or firecrackers to commit these acts or committing them in wartime and other times to temporary imprisonment, life imprisonment or execution, due to their seriousness under the exceptional circumstances and the negative effects that result from them related to the public interest or benefit. Therefore, any attack or sabotage of these public facilities would be of the same kind as disrupting them from providing the services for which they were established. Article (367) of the Iraqi Penal Code also stipulates imprisonment for anyone who intentionally damages or breaks any of the machines or signs located on public roads to prevent accidents, for example, because this leads to the disruption of the service for which these machines or signs were created. The legislator has increased the penalty for this act in this article to imprisonment for a period not exceeding ten years if the disruption of the machines and signs results in the death of a person or a disaster, as is the case in the case of the demolition or destruction of movable or immovable property, where the penalty is imprisonment or a fine because this leads to the disruption of the public utility. However, if the demolition or destruction leads to the death of a person, the penalty is imprisonment. Article 444/Eleventh of the Penal Code criminalizes theft of public funds and prescribes imprisonment as the penalty, since these funds are allocated for public benefit or interest, and the act of theft disrupts the operation of public facilities. The UAE legislator also punishes the crime of attacking transportation infrastructure under Article 340 of the Penal Code, considering it a crime against transportation and public facilities, with both imprisonment and a fine, without granting the court discretion to choose between them. This classifies it as a misdemeanor, based on the nature of the legally prescribed

punishment. According to UAE law, the imprisonment term cannot be less than one month nor more than three years, thus defining the timeframe for the custodial sentence. The UAE legislator acted wisely in imposing a fine alongside imprisonment, stipulating a substantial fine of up to five million dirhams, a high amount by misdemeanor standards, reflecting the seriousness of the crime and the extent of the resulting damage. This indicates that the fine is not symbolic but rather has a deterrent effect commensurate with the severity of the attacks on vital facilities. The UAE legislator also punishes... The crime under consideration—namely, attacks on transportation infrastructure—is considered an act that threatens the external security of the state. It carries a life sentence if the act is committed intentionally, whether through destruction, disruption, or damage to the facilities. The legislator did not specify a minimum or maximum penalty in this context. However, the legislator increased the penalty to the death penalty if the crime is committed during wartime, due to the direct threat it poses to state security. A prison sentence is imposed if the act of sabotage affects internal state security, without specifying a minimum term. This means the sentence cannot be less than one month, according to the general minimum prison term, and cannot exceed three years. If the crime results in actual disruption of infrastructure, the legislator stipulated a prison sentence of no more than five years. Life imprisonment is imposed if the crime is committed during wartime or if the perpetrator intended to spread terror or chaos among the population. In addition, the perpetrator is ordered to pay for the damage caused by their actions. Regarding the crime of arson against public transportation facilities such as airports and ports, the legislator stipulated the following: The penalty is temporary imprisonment for a period not exceeding seven years. The penalty is increased if it is proven that the fire was set with the intent to achieve material gain for the perpetrator or another, as this is considered an aggravating circumstance. In all cases, the perpetrator is obligated to pay a fine equivalent to the amount of damage caused by the fire, and the penalty is increased to

Section One: Material Measures

First: Confiscation: In the context of crimes of vandalism targeting public property, transportation, and infrastructure, confiscation as a precautionary measure is of paramount importance. Its preventative role aims to deter the recurrence of criminal acts by depriving the perpetrator of the means or tools used, or intended for use, in committing the crime. Article 135 of the Penal Code mandates the confiscation of seized items whose manufacture, possession, use, sale, or offering for sale constitutes a crime in itself, even if these items do not belong to the accused, or if no conviction has been issued against them.

In Emirati legislation, the legislator has also adopted confiscation as a precautionary measure in crimes of aggression against public property and transportation. The court, upon conviction, is authorized to order the confiscation of tools or funds used, that could have been used, or that were the subject of the crime, or that were obtained from it, while ensuring that the rights of bona fide third parties are not prejudiced. This was stated in a permissive manner to grant the court flexibility in assessing the circumstances of each case.

Second: Closure of the Establishment: In both Iraqi and Emirati law, the closure of the establishment, as a precautionary measure, means preventing the convicted person from engaging in the same activity they were conducting within the establishment before the crime was committed. This serves as a means to prevent the recurrence of the crime through the use of the same means or circumstances that facilitated its commission. In Iraqi law, the legislator has authorized the court, when ruling on a felony or misdemeanor, to order the closure of the establishment used in committing the crime for a period of no less than one month and no more than one year. This closure entails preventing any party, including the convicted person or any of their relatives, from using the establishment for the same activity during the closure period. An exception is made for the owner of the establishment or anyone with a real right therein, if it is proven that they were not a party to the crime or aware of it, in order to protect the rights of bona fide third parties. In the UAE, the Federal Penal Code stipulates that a court may order the temporary or permanent closure of an establishment if it is proven that its activities are used to commit crimes, including acts of sabotage targeting public property or vital infrastructure. In such cases, no person is permitted to operate the establishment or resume its activities during the closure period. The UAE legislator requires that a conviction has been issued for this measure to be imposed, and that the continued operation of the establishment poses a threat to public order or security, or leads to the re-commissioning of the crime.

Section Two: Personal Measures

These are defined as a set of procedures stipulated by the legislator and aimed at preventing the re-commissioning of crimes by dangerous offenders.

First: License Revocation: The importance of a driver's license becomes clear in the context of crimes

involving the sabotage of means of transportation and public facilities, especially when these crimes are linked to driving vehicles or using means of transportation in carrying out criminal acts. Iraqi Traffic Law No. (86) of 2004 stipulates that a person must have reached a certain age to obtain a driver's license. This ensures the legal capacity and technical skills necessary to drive vehicles, a matter closely linked to the driver's responsibility for actions that may endanger public safety, including acts of sabotage or causing damage to transportation infrastructure. Similarly, Article (8), Paragraph (Third) stipulates that not possessing a driver's license, or possessing an invalid or revoked license, makes the driver jointly liable with the vehicle owner for any resulting damages.

Second: Extradition: The extradition of criminals is a prominent form of international judicial cooperation and is of particular importance in cases of sabotage that affect national security and public facilities. In Iraqi law, the Code of Criminal Procedure No. (23) of 1971, as amended, regulates the extradition procedures in Articles (357) to (368). In the UAE, Federal Criminal Procedure Law No. (35) of 1992, as amended, regulates extradition within the general rules of international judicial cooperation, stipulating the existence of an agreement or the principle of reciprocity. Sabotage crimes are considered serious offenses that threaten national security and are therefore subject to priority in international judicial cooperation, including extradition. The law stipulates that the competent authorities in the UAE will not extradite a wanted person until they have verified the legal requirements, such as the crime being punishable under UAE law and the availability of sufficient evidence.

Conclusion

The research concluded that the crime of sabotaging ships and aircraft is among the most serious crimes requiring a firm legislative and judicial response. It was found that both Iraqi and Emirati legislation address this crime in accordance with international agreements, with some differences in wording and penalties.

Results:

1. Both Iraqi and Emirati legislation criminalize acts of sabotage and destruction of public transportation, including ships and aircraft, and consider them serious crimes that threaten lives, property, and public security. They also increase the penalties for perpetrators when serious consequences occur, with punishments reaching life imprisonment or the death penalty if the act results in death or significant damage. Both legislations, albeit to varying degrees, demonstrate the influence of international agreements related to air and maritime navigation security, reflecting the legislators' awareness of the importance of addressing the transnational nature of these crimes.

2. Despite this agreement, Iraqi law focused on protecting public transportation within the country or that which affects its national security, while Emirati law broadened the scope of protection to include any act that threatens maritime or air navigation, even outside the country's territory. Furthermore, the Iraqi legislature included acts of sabotage within a general framework related to public facilities and means of transportation, while the Emirati legislature dedicated specific provisions to ships and aircraft, in line with the country's position as a global transportation hub. Additionally, penalties in Iraqi law were characterized by direct severity, reaching the death penalty, while Emirati law adopted a graduated approach to punishment, ranging from life imprisonment to the death penalty, depending on the severity of the offense. Finally, Iraqi law maintained its national character in drafting its provisions, while the Emirati legislature ensured the integration of its international obligations into its texts, combining deterrence and preventive measures as means of control and complementary legislation.

Recommendations:

1. Strengthen national legislation by updating and detailing legal texts to keep pace with modern technological developments in the maritime and air transport sectors. 2. Unifying regional and international efforts through judicial cooperation and the exchange of security information between Iraq, the UAE, and other countries to address the transnational nature of these crimes.

3. Focusing on preventive measures such as strengthening monitoring and inspection systems at ports and airports, and developing specialized security and legal personnel to combat these crimes.

4. Integrating international agreements more clearly into national legislation to ensure the effective application of the "surrender or be tried" principle and to achieve harmony between domestic laws and international obligations.

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