

GLOBALIZATION OF CRIMINAL LEGISLATION AND THE REQUIREMENTS TO ACHIEVE IT

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Abstract

The phenomenon of globalization extended to many sectors worldwide, most notably trade and technology, and the matter apparently reached legislation through the conclusion of a large number of international agreements related to the regulation of legal issues related to criminalization and the protection of human rights. It contributed to achieving a strong convergence between the criminal legislation of the countries of the world with the aim of achieving its complete unification in the future. Criminal legislation is to be based on sources that contribute to the preparation for its realization, and it shows us that its sources are embodied in legislative theories such as comparative studies and legislative conferences through which calls are made for the unification of criminal legislation, and governmental organizations and non-governmental organizations are also considered as sources. We have concluded that it is embodied in joining conventions on criminalization, protection of human rights, and legislative alignment. One of the most important results we have reached is that the legislation of the countries of the world has begun to respond to the phenomenon of globalization of criminal legislation in line with the international obligations that are regulated by general international conventions by reviewing many of their criminal legislation. The recommendations that we called for the need to harmonize national legislation with international conventions in the manner of special legislation or inclusion in general legislation, especially in criminalizing the actions of organized criminal groups.

Keywords: Globalization, criminal legislation, international conventions, unification, legislative alignment.

INTRODUCTION

The phenomenon of globalization has extended to include multiple aspects in different fields of life as a result of the changes that have occurred at the international level. And the sources on which it is based and the mechanisms of its application.

First: The importance of the study: It is represented by the emergence of signs aimed at unifying criminal legislation for all countries of the world by adopting unified provisions and rules with the aim of creating convergence and unification in criminal legislation in order to enhance international cooperation, especially in the field of combating organized crime, which requires studying this phenomenon and reviewing the requirements for achieving it and its implications for national legislation.

Second: The problem of the study: The topic raises several legal problems, the most prominent of which is the controversy over the concept of globalization of criminal legislation and its distinction from other concepts, as well as the problem of identifying the sources of achieving the globalization of criminal legislation, and the problem of the requirements by which the globalization of criminal legislation is achieved.

Third: The methodology of the study: In our study, we will rely on the analytical approach based on the fragmentation and dismantling of the vocabulary and elements of the study and moving from



the part to the whole to reach the general rules for it, and we will focus on the rules contained in Iraqi law and the texts mentioned in the legal agreements related to criminal legislation in order to reach conclusions Legal and recommendations to solve problems.

1. THE MEANING OF THE GLOBALIZATION OF CRIMINAL LEGISLATION AND ITS SOURCES.

1.1. THE MEANING OF THE GLOBALIZATION OF CRIMINAL LEGISLATION

It is not easy to reach an agreed definition regarding the general meaning of globalization, idiomatically, because the phenomenon of globalization is one of the most prominent phenomena that raises controversy and debate as a result of the ramifications of its dimensions and the breadth of its effects, which did not stop at mere influencing the reality of relations between countries, but rather went beyond it to directly affecting the internal conditions of most countries of the world. It left tangible effects on various aspects of human life, and as a result of the multiplicity of angles through which this phenomenon is viewed, thinkers differed in defining a comprehensive scientific meaning for globalization. With specific tools that can be limited to multinational companies, information and communication technology, and the market economy." (Al-Hajjar, Magda, 2010, p. 59).

It has also been defined as "all developments and developments that seek, intentionally or unintentionally, to integrate the world's population into one global community" (Malcolm Waters, 2001, page 21). With regard to what was stated in the aforementioned definition, we believe that the interrelationship between developments and developments and globalization cannot be It is inevitable, so we cannot count all developments and developments as nourishing for the phenomenon of globalization, because some of them result from cooperation and joint solidarity, which by their nature depart from the field of globalization that affects the countries of the world without permission.

It was also defined as "a system that aims to connect the peoples of the world to each other in all aspects of their lives, through the fall of borders and the fading of distance." (Al-Marashda, Youssef, 2008, p. 26).

With regard to the meaning of the globalization of criminal legislation, the effects of globalization have extended to all aspects of human life, reaching a stage in which the legislative environment is affected, in particular with regard to national criminal texts through interference in the directions of drafting national criminal text legislation, and the meaning of the globalization of criminal legislation is not far from the meaning of globalization General except in its limited scope in the legal aspect, so we will review some of the definitions that were formulated regarding it, and start with what was said regarding a definition that it is "the process of unifying concepts and terminology and the increase of international legislation in governing relations between states within the scope of each state through the amendments imposed by international institutions on these Laws are subject to conditions imposed on the countries that borrow from them, and these conditions lead as a result to the spread of unified legal rules that are applicable to all countries." (Nuri, Burhan Muhammad, 1999, p. 144) Through the terms of borrowing that are set by international institutions, contrary to the characteristics of globalization, which expands to include all countries of the world.

It was also said that it is "the process of including international texts of a criminal nature within the national criminal legal system, whether through amending existing criminal texts or introducing new ones and devoting and activating the principle of the universality of criminal legislation." (Awwas, Wisam, and Rish, Muhammad, 2022, p. 918).



It has also been defined as "the international organization represented by the group of international institutions that establish and work to enact international criminal legislation and its applications and implement the judgments and judicial decisions issued at the international level."

It was also defined as "the process of unifying laws and making them universal in legislative, executive and judicial character, especially with regard to laws regulating issues of trade, human rights, money flow and others, after most political systems have been constitutionalized" (Ghadban, Mabrouk, 2009, page 61), and this definition was not spared. From criticism, it has been said that the process of unifying criminal legislation at the international level is an exaggeration, as it has not yet been achieved, and if its indicators are in the process of verification, it is still at the present time a matter far from being reached, in addition to the contradiction of the idea of a unified legislative authority at the international level with the monopoly of the state on its function Legislative framework based on the idea of state sovereignty over its territory. (Annan, Jamal Al-Din, 2018, p. 51).

We support the following definition of the globalization of criminal legislation, which shows that it is "the international trend towards unifying the rules of criminal legislation in all countries of the world within the framework of a philosophy that keeps pace with the concepts of the new international order and faces its various challenges." (Mahmoud, Sabah Misbah, 2022, p. 15).

1.2. SOURCES OF GLOBALIZATION OF CRIMINAL LEGISLATION

The globalization of criminal legislation is linked to sources that contribute to its crystallization and expansion, and those sources are embodied in legislative theories and global organizations, whether governmental or non-governmental, so we will address these sources through the following paragraphs.

1. 2. 1. Legislative endorsements: They refer to the total efforts that are being made at the legislative level in preparation for adopting the globalization of criminal legislation and calling for the unification of criminal laws worldwide according to a unified vision. These theories are represented by two sources: comparative studies and international conferences, which requires review as follows.

A- Comparative studies: Comparative studies are one of the scientific research methods that are adopted for comparison between the national law and other foreign law or laws or any other legal system, in order to show the aspects of agreement or difference between them with regard to the legal issue in question in order to reach the best solutions in its regard, (Abd al-Latif, Baraa Munther, 2016, p. 23) Therefore, comparative studies play a prominent role in unifying and bringing together principles and concepts between legislation, whether it is related to criminalization and punishment or procedural issues, and their effects are clearly reflected on the legislative side by highlighting the characteristics of the legislation under comparison and trying to eliminate the discrepancy between Such legislation or reduce it to a certain extent in order to reach the stage of unifying legislation within the framework of general and private principles.

The first jurisprudential attempts at the level of criminal legislation were in comparative studies through the issuance of two books by the jurist (Ortolan), the first entitled (Lectures on Comparative Criminal Legislation) and the second book entitled (Comparative Criminal Legislation) in 1995, and it is considered one of the main references in criminal law (Anan, Jamal Religion, 2018, p. 55) and the French jurist (Lambert) believes that comparative studies in the field of legal research are a means of bringing people together and cooperating between them in developing national laws, strengthening relations between countries of the world, and forming a global legal conscience through agreement on a unified global law that can be applied to all the whole world. (Hassan, Ismat Muhammad, 2002, p. 82).

b- Legislative conferences: The issue of legislative theorizing towards comparison between the laws of states and attempts to bring them closer to holding international conferences pushed towards unifying criminal laws for the whole world. Once by adopting calls for convergence and preparing a unified criminal law that is suitable for application in the whole world, (Saadi, Muhammad, 2021, p. 28), and calls continued to adopt the idea of convergence and standardization of criminal rules in subsequent conferences, including the first international conference for the unification of criminal law held in Warsaw in 1927, The Third Conference on Unifying Criminal Law held in Brussels in 1930, the Fourth International Conference on Unifying Criminal Law held in Paris in 1931, the Comparative Law Conference held in The Hague in 1932, the Fifth International Conference on Unifying Criminal Law held in Madrid in 1935, and the Sixth International Conference on Unifying Criminal Law Held in Copenhagen in 1935, and the Second Comparative Law Conference in The Hague in 1937. (Ramadan, Medhat, 1995, p. 7).

1.2.2: THE ROLE OF GOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS.

For the purpose of clarifying the role of organizations in keeping pace with the trends of legislative globalization, we will discuss the role of governmental organizations in the first paragraph of this section, and the role of non-governmental organizations in the second paragraph, as follows.

A- Governmental organizations: When delving into the role of governmental organizations as a source of globalization of criminal legislation, the scope of our study in this paragraph relates to intergovernmental organizations without national governmental organizations, since the latter are subject to the rules and provisions of the country to which they belong, and what is meant by the international governmental organization is “a legal person established by states under an international agreement.” Among themselves, it enjoys international legal personality, receives funding from the international community, and its behavior is subject to the rules of international law, the most prominent of which is the United Nations (Atlam, Hazem Muhammad, 2010, p. 19).

Intergovernmental organizations play an important role in the international community through the development of relations among its members with the aim of stability in various aspects. The exclusive jurisdiction of the member states of the international community, and in the forefront of these issues is legislation within the framework of criminalization and punishment, as well as defining procedures for prosecution of violators of its legislative texts. Therefore, it has taken upon itself the sponsorship of many international agreements between the countries of the world, the most prominent of which is the United Nations. (Mahmoud, Sabah Misbah, 2022, page 54).

The United Nations shall form specialized committees to review the draft before its adoption and after its approval. The original copy shall be deposited with the United Nations Secretariat in order to invite countries of the world for the purpose of signing, ratifying or joining, as the case may be, in accordance with the Vienna Convention on the Law of Treaties. The United Nations Organization has sponsored many Conventions related to criminalization and punishment, most notably the Convention on the Elimination of All Forms of Discrimination against Women of 1979, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984, the Convention on the Rights of the Child of 1989, the Convention for the Suppression and Financing of Terrorism of 1999, and the Convention United Nations against Transnational Organized Crime of 2000, and the United Nations Convention against Corruption of 2003.

B- Non-governmental organizations: Non-governmental organizations are defined as “every grouping, association, or movement formed in a viable manner by persons belonging to different countries, for the purpose of achieving goals that do not include profit.” (Mahmoud, Magda Ahmed, 2007, p. 21), and it is worth noting that some non-governmental organizations have a tendency to interfere in the internal policies of countries and rely on the support of global public opinion, and



many non-governmental organizations seek to influence the legislative policies of countries with the aim of pushing them to enact legislation or amend their legislation in line with their goals. These organizations have succeeded to the greatest extent in influencing some countries in this field, and this seems clear in various issues, as is the case in the efforts of the International Justice Organization in the matter of abolishing the death penalty, which resulted in the abolition of many countries from their penal legislation, and the expansion of the activities of non-governmental organizations. As a result of global changes at the end of the last century due to transformations and events that created challenges that affected the ability of states to carry out their tasks, which helped the presence of other actors seeking to carry out those tasks that were until recently within the competence of states, and among the most prominent files that have become the focus of attention of non-governmental organizations is the file of government protection of human rights and democracy and the file of minorities. (Baylis John, Smith Steve, 2003, page 28).

As a result of the extension of the activities of non-governmental organizations to the aforementioned files, this would generate a collision between these organizations and the governments of the countries in which these organizations operate. Non-response of these governments. Non-governmental organizations resort to documenting violations and submitting detailed reports to relevant international organizations.

2. THE REQUIREMENTS OF THE GLOBALIZATION OF CRIMINAL LEGISLATION

2.1. JOINING CRIMINALIZATION AND HUMAN RIGHTS PROTECTION CONVENTIONS.

International agreements are considered one of the most important forms of cooperation between members of the international community in various fields, the most prominent of which is the field of dealing with crimes. (Al-Tarawneh, Mukhalled, 2003, p. 5), and the agreements are divided according to the legal function that each of them seeks to achieve into contractual agreements concluded between two states or a limited number of states in a special matter, and general agreements that are concluded between a large group of states whose will agrees to establish general rules that concern all countries, and the state is a party to the agreement by participating in the negotiations of the agreement, preparing its text, signing its conclusion, and being named a main party to it, or joining it later in accordance with the conditions specified by the terms of the agreement, (Dawy, Ali, 2019, p. 60), and joining international agreements is defined as a voluntary act by which the state becomes a party to a multilateral agreement, and the agreements that regulate the protection of human rights are often open to all countries (Al-Attiyah, Essam, 2012, p. 93), and it is necessary to know the extent of the state's commitment to accession and to find out about the accession procedures and their legal impact, so we will show them as it comes.

2.1.1. THE EXTENT OF COUNTRIES' COMMITMENT TO ACCESSION.

In order to know the extent of countries' commitment to accession, the binding force of the criminalization and human rights conventions will be clarified, as well as the legal impact of not joining those conventions.

A- The binding force of criminalization and human rights conventions: The completion of the process of concluding the agreement entails the obligation of all its parties to implement it, and it is an obligation to achieve a result and not to exert care, so its parties should implement the provisions of its provisions in accordance with considerations of good faith, and it follows from the failure of the State party to comply with the provisions contained therein to the establishment of international responsibility (Al-Tarawneh, Mukhalled, 2003, p. 10), and there is no dispute about its force international agreements binding on its parties, as for the obligatory force of international agreements vis-a-vis others, the general rule that applies in this regard is the rule of the relative effect of the agreement, which means that the commitment to the agreement does not extend to



others, so it does not create The Convention has obligations on a country that is not a party to it without its consent. However, this rule is not absolute, but there are some exceptions to it, the most prominent of which is what was stated in Article (38) of the Vienna Convention on the Law of Treaties, which stipulates the following: “The provisions of Articles (34) are not transferred to 37) From the transformation of a rule existing in the Convention into a rule binding on a state from a third party as a customary rule recognized by the rules of international law.” The provisions contained in the international agreement become a rule binding on non-parties in the event that it is repeatedly applied and becomes part of a custom followed at the international level. (Hamouda, Montaser Saeed, 2009, p. 170).

b- The effect of not joining: The principle is that the state’s accession to the Convention and its commitment to implement its provisions is linked to its consent, and it does not impose obligations on it without its will and consent in accordance with Article (12) of the Vienna Convention on the Law of Treaties. However, the matter raises a question regarding the legal impact of countries that refuse to join conventions related to criminalization and the protection of human rights and freedoms the basic.

The development taking place at the international level showed the existence of a close relationship between peremptory rules and the rules related to human rights and freedoms. Often, peremptory rules are inferred by the rules that are related to those rights and freedoms. Reference is made to the rules that prohibit crimes against human rights and freedoms, which necessitated the existence of peremptory rules that provide a minimum level of protection. Justice and the protection of human life. Acts that violate the legal rules protecting human rights and freedoms are no longer an internal matter, but rather core values of the international community as a whole, which justifies the transformation of the convention rule into a rule of a peremptory nature, which imposes obligations on all states to protect the rights established for human beings, whether the state is a party to relevant agreements or not.

It can be said that states that are not parties to the conventions on human rights and freedoms and those that oppose aggression against them have two obligations. Considering that it constitutes a violation of what has been repeated by the international community in the framework of basic human rights and freedoms, and based on the foregoing, it is clear to us that the state, whether or not it is a party to the Convention protecting human rights and freedoms, does not allow it to violate the rights protected by it because these rights are of a universal nature It was organized under agreements of a general and multilateral nature and was discussed within the framework of international bodies, which achieves the most important conditions for transforming the convention rule into a customary rule of a peremptory nature, and reflects beyond any doubt the direction of the will of the international community towards imposing an obligation on all states to protect human rights and freedoms.

2.1.2. THE ACCESSION PROCEDURES AND ITS LEGAL EFFECT

The requirements of the study require identification of the procedures for accession to international agreements and an indication of its legal effect through the following.

A- Procedures for accession to international agreements.

International agreements pass through four stages before they are finally concluded, which are negotiation, editing, signing, ratification, and registration. By the provisions of the Convention itself, that there are texts permitting accession and showing its mechanisms, or that the negotiating countries have agreed to allow other countries to accede later to the Convention, (Al-Attayah, Essam, 2012, p. 60), and when we look closely at the Convention related to criminalization and human rights, we find that it Mostly, it allows accession later and regulates that within its provisions, most notably the Convention on the Prevention and Punishment of the Crime of



Genocide of 1948, the Convention on the Elimination of All Forms of Racial Discrimination of 1965, the Convention on the Elimination of All Forms of Racial Discrimination against Women of 1979, and the Convention against Torture of 1984, Convention The United Nations to Combat Transnational Organized Crime 2000, the United Nations Convention against Corruption of 2003, and the International Convention for the Protection of All Persons from Enforced Disappearance of 2010, and all of these agreements indicated that the door to accession is open to all countries.

As for the legal value of accession, it is equal to signing and ratification together. Accession is equal to ratification by its internal procedures and by the internal authority concerned with it. It is preceded by a signature, as is the case in the procedures prior to the conclusion of the agreement by the principal parties thereto. (Dawy, Ali, 2019, p. 60).

The Vienna Convention on the Law of Treaties clarified the mechanism of accession in accordance with Article (15) with the following text: “The state expresses its consent to be bound by the treaty if the treaty stipulates that the expression of consent takes place by accession, or if it is proved in another way that the negotiating countries had agreed that the expression of Consent is by accession, or if all parties hereafter agree that the expression of consent is by accession.”

From the foregoing, it is clear to us that the multilateral conventions dealing with criminalization and human rights keep the door open to accession for all countries in an effort to expand participation on a large scale, given the status that the international community has attached to the human rights file.

b- The legal effect of joining.

The state, whether it is a main party to the agreement or a later acceding party, produces the same legal effect towards it, which is compliance with its provisions. The obligations of the state parties to the conventions, including the criminalization and protection of human rights agreements, take on two aspects. Or joined it later, which is to show good faith in dealing with it and not to enter into any other international commitment that is fundamentally inconsistent with its previous commitment, in addition to preparing all its powers to adapt and implement it without procrastination, in addition to expediting the review of its legislation in order to harmonize it with the provisions of the Convention. The second aspect is A special character represented by all legislative, administrative and judicial measures of various types with the aim of achieving the required cooperation between its parties in the framework concerned with the subject matter of the international agreement. (Mahmoud, Sabah Misbah, 2022, p. 129).

2.2. LEGISLATIVE ALIGNMENT.

It is not possible to talk about the seriousness of the state’s commitment to international agreements unless this entails a review of the state’s legislation in order to consider the extent to which its texts are in line with the provisions contained in those agreements. For the details of this, the meaning of legislative harmonization, its problems, and its procedures should be identified as follows.

2.2.1. THE MEANING AND PROBLEMATIC OF LEGISLATIVE ALIGNMENT.

The requirements of the study require that the meaning of legislative alignment be stated, and the problematic of passing it be defined, as follows.

A- The meaning of legislative alignment: means “the state’s compliance with its national legislation with its international obligations arising from its participation as a party to international or regional agreements and in accordance with the legislative measures that these agreements came with in order to eliminate all conflicts between it and the state’s legislation, through its legislative



authority to avoid provoking its international responsibility before the international community and to prove its good faith towards it.

And based on what was mentioned in the definition mentioned above, the term legislative alignment indicates that it is a step in the state's implementation of the international obligations arising from its association with the international agreement. It is for the competent authority to legislate and cannot be delegated or delegated to any other party.

B- The problem of passing legislative alignment: The state's commitment to implementing the Convention, especially with regard to agreements related to the protection of human rights, entails that its provisions oblige state parties to take the necessary legislative measures to enforce international agreements. However, achieving legislative alignment between international agreements and national legislation raises some problems, the most prominent of which is the nature of The relationship between international law and the internal law of the State Party to the Convention, and in order to determine the nature of the relationship between international law and domestic law, two theories prevailed in jurisprudence, namely the theory of the duality of the two laws, and the theory of the unity of the two laws, and they will be reviewed as follows:

1st : The theory of dual laws: According to the vision of the proponents of this theory, international law and domestic law are two legal systems that are independent, equal, and separate from one another. The validity of the international rule in the domestic legal system, and therefore the national judge's failure to apply or interpret it except with the intervention of the legislative authority to approve it by law to convert it into internal legal rules with the same constitutional procedures followed in the legislation of national laws. to the State party. (Abdul Hamid, Muhammad Sami, 1995, page 95).

2nd :The theory of the unity of the two laws: According to this theory, international law and internal law represent two branches belonging to one legal system, and that the legal unity is based on derivation, dependency, and delegation that is based on a hierarchy, and that the legal base is of the same nature, and that both laws include legal rules that are similar By its general nature organizing society, as well as the unity of purpose that aims to achieve the public interest. (Bouzaida, Adel, 2021, p. 178).

And because the conflict is contained within the single legal system assumed by the proponents of this theory, the controversy arises regarding the superiority of one over the other in the hierarchical hierarchy, and accordingly the proponents of this theory were divided into two opinions between those who say the supremacy of international law over domestic law based on the idea that supposes that international law is the basis Internal laws and from it emerge the rules and provisions of the laws of states. Therefore, internal laws should not conflict with international rules, and among those who see the opposite in the supremacy of internal law over international law based on the idea of derivation that supposes the derivation of the rules of international law from internal law, (Omar, Abu al-Khair Ahmed, 2003 and p. 34). Returning to the Vienna Convention on the Law of Treaties, we find that it gives primacy to international law over domestic law in accordance with Article (27), which states the following: "A party to a treaty may not invoke the provisions of its internal law as a justification for its failure to implement the treaty." However, the aforementioned text did not resolve the controversy. Dualism or the unity of the two laws, and there is no way to resolve this issue except by returning to the texts of the constitutions that are supposed to put an explicit text to resolve it, due to the different legal consequences that result from adopting one theory over the other, and foremost among them is the extent of the need to achieve legislative harmonization or not, so saying the theory of the unity of the two laws leads To the conclusion that there is no need to achieve legislative harmonization, because the state constitution in this case is the decisive factor in removing the conflict between the international text and the national text, while the result of adopting the theory of dual laws leads to the need to



achieve legislative harmonization, because the international text does not oblige the national authorities unless it is enforced in the domestic law . (Mahmoud, Sabah Misbah, 2022, p. 137).

As for the rank of international agreements after joining them, the legal systems differed in their regard. Some of them place international agreements in a position higher than or equal to the constitution, and this matter only occurs in flexible constitutions. International legal value overrides its national legislation, and this matter obliges the state to legislative alignment, and some of them give international agreements the legal force of ordinary laws, and among those systems are what was stated in the Egyptian constitution, which explicitly gave international agreements similar to those enjoyed by national laws after the processes of ratification and publication. (Al-Shukri, Ali Youssef, 2008, p. 18).

2.2.2 LEGISLATIVE ALIGNMENT PROCEDURES.

Legislative alignment is the channel for the international agreement to access the internal systems of the states parties, considering it part of the international commitment that its provisions entail, especially in the agreements that regulate issues of criminalization and human rights and freedoms.

A- The issuance of the ratification or accession law: In order to establish the status of the international agreement with the state party to it and to achieve final commitment to it, it is assumed that the ratification law of the agreement or the law of accession to it is issued, and this is embodied in the state's expression of its official acceptance. (Mahmoud, Sabah Misbah, 2022, p. 139).

B- Reconsidering the legislation in force: after the issuance of the law of ratification or accession to the Convention, this entails an obligation arising from it, especially in agreements of a penal nature, for the State Party to take the necessary measures to review the legislation in force in order to harmonize them with the provisions of the Convention without conflict, and to enable the criminal courts to implement them. Harmonization procedures are carried out in more than one way, as follows

1st method: Referral method: It is also known as the method of conditioning by referral. It is done through legislation following the law of ratification or accession by including two or more articles that refer to the relevant provisions of the agreement in question, so it is limited to a reference in domestic legislation without the need for detailed legislation, and this legislation concludes By publishing it in the Official Gazette to inform the addressees of it, and despite the fact that this method is characterized by ease and convenience in issuance, the problems of its application and interpretation and the lack of its penal rules for the punishment that is left to its discretion in the international conventions of the State Party are taken for granted. (Bouzaida, Adel, 2021, p. 181).

2nd method: The method of enacting special punitive legislation: According to this method, the legislative authority in the State Party issues special legislation to criminalize the behaviors specified in the Convention with appropriate penalties, as is the case in the issuance of many legislations that were developed to address organized crimes such as laws combating human trafficking crimes, laws Combating illegal trafficking in narcotics and psychotropic substances, and laws combating money laundering and financing terrorism and other legislations.

3rd method: Inclusion method: This method requires that the legislative authority of the State party undertake to insert the provisions of the Convention related to criminalization as articles in the body of the general punitive legislation or to introduce new crimes for it with the imposition of appropriate penalties in order to surround the rights and freedoms included in the Convention with a cover of protection of the general punitive legislation This method is usually done by adding a chapter or chapter to the general punitive legislation and listing crimes and penalties under this



chapter or chapter, or by distributing them to the chapters and chapters of the legislation according to their appropriate place, and this matter obviates the enactment of special legislation. (Mahmoud, Sabah Mosbah, 2022, p. 142).

After reviewing the methods of legislative alignment, it can be said that building an effective and solid legislative system that guarantees the effectiveness of penal texts requires the exclusion of the referral method in achieving legislative alignment. It was more appropriate to issue a special law that includes legislative treatment of all types of organized crime and not to resort to enacting a special law for each crime separately, as is the case in enacting a special law for money laundering and terrorist financing crimes, a law for human trafficking crimes, and a law for illegal trafficking in narcotics and psychotropic substances. .

From the foregoing, it is clear to us the importance of legislative alignment in avoiding the conflict between the international convention and national legislation, ensuring the effectiveness and stability of judicial work, fulfilling the condition of knowledge of the law and ensuring that it is fulfilled by the addressees, overcoming the problems of interpreting the text of the convention and understanding its content, in addition to fortifying the principle of legality of criminalization and punishment, since the international text includes The criminalization part without the punishment part, in addition to enabling criminal courts to apply the international text after its inclusion in national legislation.

CONCLUSION

At the end of our research tagged (the globalization of criminal legislation and the requirements for its realization), we review the most important results that we reached and present some recommendations that we hope the Iraqi legislator will take into consideration.

RESULTS

- 1- The international conventions concluded under the auspices of the United Nations in the framework of criminalization have played a fundamental role in directing national criminal legislation towards keeping pace with the development of the pattern of crime and its different ways and wide scope by criminalizing many acts that were previously criminalized in criminal legislation at the national level, especially in the field of organized crime. transboundary.
- 2- The efforts made by criminal law jurists in the field of comparative legislation, whether individually through their books and studies, or collectively by holding seminars and conferences for this purpose, formed the basic rules for the globalization of criminal legislation through calls for their application in order to achieve unification of criminal legislation in all countries.
- 3- The law of accession or ratification of general international agreements is not sufficient to achieve international commitment. Rather, it is a first step that cannot be completed without reviewing national legislation through legislative alignment procedures that aim to include the provisions contained in international agreements in national laws.

RECOMMENDATIONS

- 1- We recommend to the Iraqi legislator that the national legislation should be harmonized with the international conventions to which Iraq has acceded by the method of special legislation or inclusion in the general legislation and not to suffice with the law of accession to the convention in order to avoid problems of broad interpretation and conflict of laws, especially with regard to criminalizing the actions of organized criminal groups.

2- We recommend the Iraqi legislator to include a text in the constitution that explicitly states the status of the international agreements to which Iraq joins in the internal legal peace, provided that they do not prevail in legal value over the state's constitution.

3- We recommend to the Iraqi legislator to adopt the system of political oversight instead of the judicial oversight regarding ratification and accession to international agreements in order to avoid cases of conflict and conflict that arise between international agreements and national texts.

REFERENCES

- [1] Abu Al-Khair Ahmed Omar: Enforcement of International Treaties in the Domestic Legal System, Dar Al-Nahda Al-Arabia, Cairo, 2003.
- [2] Adel Bou Zaida: Legislative Harmonization is a Mechanism for the Globalization of Criminal Law, Journal of Judicial Jurisprudence, University of Mohamed Kheidar Biskra, Volume 13, Issue 25, Algeria, 2021.
- [3] Ali Dhawi: Public International Law, Sources and Persons, Ward Island Library, Cairo, 2019.
- [4] Ali Yousef Al-Shukri: Monitoring the constitutionality of international treaties, Journal of the Kufa Studies Center, No. 7, 2008.
- [5] Baraa Munther Kamal Abdel-Latif: Principles of Traditional and Electronic Legal Research, Dar Al-Sanhouri, Beirut, 2016.
- [6] Baylis John, Smith Steve: the globalization of world politics, 3rd Edition, Oxford University press, Oxford, 2003.
- [7] Burhan Muhammad Nuri: Prospects for Contemporary International Economic Developments, Globalization and Trade Liberalization, House of Wisdom, Baghdad, 1999.
- [8] Esmat Mohamed Hassan: Studies in Modern International Relations, New University House, Egypt, 2002.
- [9] Hazem Muhammad Atlam: Specialized International International Organizations, Dar Al Nahda Al Arabiya, Cairo, 2010.
- [10] Issam Al-Attayah: Public International Law, The Legal Library, Baghdad, 2012.
- [11] Jamal Eddin Annan: Globalization of Criminal Law, Mechanisms and Appearances, Journal of Legal Studies and Research, Volume 3, Issue 4, Algeria, 2018.
- [12] Mabrouk Ghadban: The Collision between Globalization and Sovereignty, Human Rights as a Model, Journal of Research and Studies, Al-Wadi University Center, Volume 1, Issue 7, 2009.
- [13] Magda Ahmed Mahmoud: International Non-Governmental Organizations, PhD thesis, Faculty of Administration, Economics and Political Science, Cairo University, 2007.
- [14] Magda El Hajjar: Globalization and Violence, The Phenomenon of Violence in the Shadow of Globalization, PhD thesis, Mentouri University- Constantine, Faculty of Humanities and Social Sciences, Algeria, 2010.
- [15] Makhlad Al-Tarawneh: The Effects of International Treaties in the Light of International Law and the Vienna Convention on the Law of Treaties of 1969, Journal of Justice, Issue 10, Jordan, 2003.
- [16] Malcolm Waters: Globalization, 2nd Edition, published by Routledge, United Kingdom, 2001.
- [17] Medhat Ramadan: Terrorism Crimes in the Light of the Objective and Procedural Provisions of International and Domestic Criminal Law, A Comparative Study, Dar Al-Nahda Al-Arabiya, Cairo, 1995.
- [18] Mohamed Saadi: International Terrorism Between Ambiguity and Interpretation, The Egyptian Publishing and Distribution, Egypt, 2021.
- [19] Mohamed Sami Abdel-Hamid: Principles of Public International Law, The International Rule, University Press, Alexandria, 1995.
- [20] Montaser Saeed Hammouda: Contemporary International Law, Dar Al-Fikr Al-Arabi, Alexandria, 2009.



- [21]Sabah Misbah Mahmoud Al-Suleiman: The globalization of national criminal legislation, enhancing its prestige or consolidating its hegemony, Comparative Law Library, Baghdad, 2022.
- [22]Wissam Awas, Mohamed Rish: The Globalization of Criminal Law and its Repercussions on National Criminal Policy, Journal of Law and Political Science, Issue 3, Volume 15, Algeria, 2022.
- [23]Yousef Al-Marashdeh: Globalization and its Impact on the Arab World, The Greater Middle East Project, Dar Al-Kindi for Publishing and Distribution, Jordan, 2008.