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Revista de Antropología, Ciencias de la Comunicación y de la Información, Filosofía, Lingüística y Sociología, Psicología del Desarrollo, la Cultura y la Neurología

Año 18, Núm 88 (2017)

88

Revista de Ciencias Sociales y Humanas
ISSN 1989-5517 (Impreso) ISSN 2254-2222
(Digital) Legal deposit 2017



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Sociales y Humanas
Barranquilla - Colombia

Constitutional embodiment of the right of political asylum under the Iraqi Constitution in force 2005

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Abstract

The issue of political asylum is of great and varying importance, especially in recent times. The motives that have given rise to this importance are increasing in size, aggravation and spread throughout the world, as evidenced by recent political and security instability in many countries of the modern world. A person may acquire political views contrary to the political system in his country, which is a sufficient ground for absconding and seeking recourse to other states for protection, prevention of persecution and abuse of the world at large. This right must have been secured by any means, violation of rights and torture in his country which holds its nationality, especially in countries with totalitarian regimes. As security and safety are among the most basic rights that human beings need in the face of creation and the most basic rights which must be among the most important of these means is the constitution of the right of political asylum, in the sense that this right is enshrined in the constitutions of different countries on the basis that the Constitution is the supreme document and the highest law in each country all laws and internal laws issued therein shall be complied.

Encarnación Constitucional Del Derecho De Asilo Político En Virtud De La Constitución Iraquí Vigente En 2005

Resumen

El tema del asilo político es de gran y variada importancia, especialmente en los últimos tiempos. Los motivos que han dado lugar a esta importancia están aumentando en tamaño, agravamiento y propagación en todo el mundo, como lo demuestra la reciente inestabilidad política y de seguridad en muchos países del mundo moderno.

Una persona puede adquirir puntos de vista políticos contrarios al sistema político en su país, que es un motivo suficiente para fugarse y buscar el recurso a otros estados para protección, prevención de persecución y abuso del mundo en general. Este derecho debe haber sido asegurado por cualquier medio, violación de derechos y tortura en su país que posee su nacionalidad, especialmente en países con regímenes totalitarios.

Como la seguridad se encuentra entre los derechos más básicos que los seres humanos necesitan frente a la creación y los derechos más básicos que deben estar entre los más importantes de estos medios es la constitución del derecho de asilo político, en el sentido de que este derecho está consagrado en las constituciones de diferentes países sobre la base de que la Constitución es el documento supremo y la ley más alta de cada país, se cumplirán todas las leyes y leyes internas emitidas en el mismo.

•Introduction

It is not our belief that he was afraid of the importance of addressing the Iraqi constitutional organization to the right of political asylum statement and analysis, especially since such subjects in our countries of the third world, Islamic and Arab did not receive attention in literature, commensurate with the seriousness and sensitivity, considering that the constitution and domestic law are the most important guarantee for asylum seekers.

This is not the case in the study of this subject from the international side, where studies and literature have come to an end in the study of this subject by the international organization, perhaps because the researcher finds in his hands what enriches and enriches research and study, unlike in constitutional studies, where he may find a text that refers to this Right, and often overlooked by the constitution.

The issue of political asylum is one of the topics that indicate whether modern constitutional legislation is in keeping with the renewed international humanitarian needs in light of the wars and political unrest that have spread and become an international concern, especially since there are many constitutions that rarely address the issue of political asylum explicitly, perhaps because they are afraid of the attention of political asylum seekers, who will often be granted a reason to embarrass them in the face of the asylum-seeker State, or because they do not believe in this right because they firmly believe that this right is contrary to the privileges of the holder of power.

•Research goals:

The research aims at shedding light on the constitutional texts that deal with the organization of the right of political asylum under the Iraqi constitution in force in 2005, especially in light of the basic motives that created an urgent situation for political asylum and dealing with constitutional organization and not only legal.

In some countries, it has become apparent that political opponents are exposed to imminent threats to escape, fear of persecution and torture, the threat of temporary or unwarranted imprisonment, attempted murder and physical liquidation by government elements or membership of terrorist gangs such as the Mafia and others to kill dissidents Politicians outside the borders of the country of their nationality.

And then we wanted to shed the light on this issue in the Iraqi constitution in force in 2005, and how dealt with by the Iraqi legislator organization.

• The problem of research and its questions:

This is not the legislation that we are about to state, which is the position of the constitutional and constitutional Iraqi legislations.

This is why it is difficult to find the source of references and sources that can contribute to the collection of the material of the subject. This is why it is impossible to do so.

For this reason, we cannot find the truth, so we cannot find the truth in this subject. This is the subject of this research, and some of the references that address this issue are not directly or indirectly related to this topic.

This raises the question of the main question: what is the meaning of political asylum, and the importance of granting it to the Iraqi constitution in 2005?

This problem is posed by the following questions:

What is the meaning of political asylum, the importance of granting it, and

the reasons and motives for granting it?

_ Can the Iraqi constitutional court achieve the desired objectives in organizing the right of political asylum, where adequate protection and security is provided for asylum seekers?

What is the difference between the right of political asylum and the following: (not to extradite the Muslims to Islam), and to take away the legitimacy of terrorism?

_ Have you organized the right of political asylum by the ordinary Iraqi legislator? and whether it is a special law or between the texts of one of its legislations?

What are the conditions stipulated by the constitutional and ordinary Iraqi legislator to grant political asylum?

_ What is the status of the Iraqi legislature in organizing this right between the constitutions and regulations that regulate it, and the extent of its interest in it?

• Research divisions:

The first topic

The concept of political asylum, the reasons for granting it, and the importance of human enjoyment

First: the concept of asylum in language, constitutional and international humanitarian conventions and international conventions.

Second: The importance of the right to political asylum and the reasons for granting it.

Section I: Importance of political asylum.

Section II: Reasons for granting political asylum (political crime, political opposition, persecution).

The second topic

The distinction between the right to political asylum and the suspect, and the principles governing the right to asylum

The first requirement is to distinguish between political asylum and other suspected crimes.

Section I: Discrimination against political asylum.

Section II: Discrimination against political asylum and extradition of perpetrators of terrorist crimes.

Section III: Discrimination against political asylum and illegal immigration.

The second requirement: the principles of the right to complete political asylum in the Iraqi constitution.

Section I: The principle of non-response or non-refoulement.

Section II: The principle of the inadmissibility of imposing sanctions on a refugee who enters or is illegally present in the territory of the State in international law.

Section III: Principle of the human nature of the right to political asylum and non-discrimination

The third topic

Constitutional and legal embodiment of the right of political asylum in the constitution of Iraq in 2005

The first requirement: a view of the position of the arab constitutions in general of the right to political asylum.

Section I: Constitutions that expressly provided for this right.

Section II: Constitutions referred to the law and ordinary legislation in the organization of political asylum.

Section III: Constitutions which provided for the prohibition of the extradition of a political refugee without expressly providing for the right to asylum.

Section IV: The constitutions of the law provide for the right of asylum and prohibition of extradition.

The second requirement: the constitutional and legal texts governing political asylum in Iraq

Section I: The right of political asylum under the Iraqi constitution 2005 effective.

Section II: Political asylum in Iraqi legislation and the conditions for granting it.

Third: Iraq has taken the lead in protecting asylum.

The first topic

The concept of political asylum, the reasons for granting it, and the importance of human enjoyment.

Asylum in general is an old judicial concept that a person who is persecuted for his political views or religious beliefs in his country has the right to protection and safety.

The issue of political asylum is of great and increasing importance, especially in recent years. There are reasons and pretexts for political asylum and political refugees that are growing in magnitude, severity and prevalence in many countries and continents, especially political and security instability. Which forced many individuals to flee and seek refuge in other States for protection or prevention of persecution or abuse?

We recognize the concept of asylum and refugee political, and we know

the reasons, motives and justifications that justify the granting of this right, as well as the importance of the enjoyment of the right to political asylum, in two of this section as follows.

First requirement:

The concept of political asylum in language and constitutional and international humanitarian and international conventions.

Asylum in the language: The source of the act resorted, it is said: resorted to the thing and resort to the place resorting to refuge and asylum and refuge in the sense of what I obeyed, and I resorted to God: I gave and handed over to the Almighty God to him, and resorted to both and on him: if based on him and adapted or modified him To others, the person is said to resort to the place and the other: his intention, and his family, and the refuge of the oppressed to the judiciary: based on him and his family ..

This is why the use of the Arabic language to protect and to rely on the possibility of a person or other person, or that the person fleeing the homeland is fleeing from persecution, war or famine, and the actor: a refugee, and a group of refugees.

In this regard, the Holy Quran uses the word “trade”, “Ijara” as it says in the verse: “And if one of the polytheists seduce you, then reward him until he hears the word of God and then informs him of his safety.” There is no doubt that the word “Contemporary international law, as it involves all the meanings and elements of this issue.

It means that there is persecution or is forced to seek protection, otherwise it would not be rented out. It also involves the desire to take shelter in a person or authority; otherwise it will not be rented. It is known that neighborliness is the entry of a person in the protection of another person. Entering someone’s neighborhood, while the Ijara is to give one this neighborhood or this protection and security when asked.

The use of the Quran for the term “Ijara” was in the sense of relief or protection, which assumes that others cannot be attacked on the ground. In this, Allaah says (interpretation of the meaning):

As for political asylum in the term, it is defined as: the necessity to emigrate either as a result of a change of government by revolution or coup, forced to flee persecution for political reasons, and the choice of another State to reside permanently or temporarily until the cause of such asylum has disappeared.

The political refugee definition itself is of great importance given the legal effects of this definition on the asylum seeker. For asylum seekers, the definition is life or death, and therefore the political refugee who may ben-

efit from the protection prescribed for him must be defined.

The UN refugee convention defines a refugee as: "Everyone who is the result of events that occurred prior to 1 January 1951 and due to justified fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political views outside a country His nationality and cannot or will not, because of that fear, avail himself of the protection of that country ".

The protocol to the convention states that: "Any person who falls within the definition of refugee in Article 1 of the United Nations convention on Refugees after the deletion of the words: as a result of events that occurred prior to January 1, 1951," which means the abolition of the temporal and geographical limitations of the refugee definition according to the above-mentioned convention, every person who has been persecuted for the above reasons mentioned in article I of the convention regardless of the history of the events for which he or she became a refugee, whether in Europe or elsewhere in the world, is considered a refugee.

It is understood that an individual is a refugee either on an individual basis, either alone or with his family from the country where he or she is persecuted in the country of refuge, or as part of a mass exodus as a result of political, religious, military or others are at risk of persecution.

And the term refugee or refugee, although new in international jurisprudence and international conventions, the content and meaning of which apply to many cases old or new, as asylum is closely linked to the person who is looking for the means of security and security from ancient times.

The refugee concept in Iraqi legislation is consistent with previous linguistic and constitutional concepts, as well as with international conventions and treaties. The Refugee Law states that Iraq: "Any refugee who invades the Republic of Iraq for political or military reasons".

As a matter of fact, it is clear that political asylum is for a foreign State or for its embassies abroad or on board one of its ships or warplanes, in which the refugee is required to stay temporarily or for a period of time in order to escape the danger of their encroachment. The opposition of the government or ruling party in his country, so that any local security authority cannot enter one of these places with the intention of arresting this person. This type of asylum is undoubtedly a humanitarian act, especially if the danger is real.

The second requirement:

The importance of the right to political asylum and the reasons for granting it. The granting of political asylum is rare. It is regarded as an unfriendly

act and at the same time interference in the internal affairs of the country to which the refugee belongs, especially during periods of internal unrest, political instability or civil revolt or disobedience in the country.

Most asylum seekers are in South America, some in the Mashreq and Maghreb countries, some in Asia, Africa, and others. Most of these countries are politically immature or newly independent. The greed of control and the assumption of an authoritarian rule contrary to the provisions of the Constitution and the law that makes the army basically subject to the president of the country, whether a king or a president of the republic.

Most of these are the claim to improve and correct the deteriorating situation, but in fact these allegations are false and soon turn into iron, fire, imprisonment, torture and the removal of most of the most senior and competent officials from their positions.

This leads to the persecution and constant persecution of these dissidents, which highlights the importance of the right to political asylum as it is considered a haven and relief for those from oppression and abuse, after having to seek protection and safety and the desire to protect the powers of a state on its territory, by their state of nationality, where they escape persecution and impunity.

We recognize this requirement on the basis of the idea of the right to political asylum and the importance of granting it, as well as the reasons or motives that require granting this right, in two sections of this requirement as follows.

First branch:

The basis for the idea of the right to political asylum and the importance of granting it the destinies of people are always in the hands of fate, acting in accordance with controls beyond the awareness of human beings, sometimes left in the wind blows, no matter how he was, and sometimes keep them sponsored by the horrors and prepare for safety.

The man often falls prey to circumstances which he cannot escape, and which he almost destroys and provides to him if he does not make use of his hand to take his hand or to help him with a safe haven to hide from the harshness of the situation surrounding him or from the cruel brute force that persecutes him.

The instability of the human destiny as such, and the consequent sense of the need to help the poor and the desperate seeking refuge from the oppressors and the powerful are the elements that have given rise to the right of refuge or shelter and have remained supportive in various covenants.

The idea of shelter is as old as humanity itself. It is in fact associated with

misery, oppression and crime, and is inspired by compassion, tolerance and forgiveness, in which one seeks refuge across borders to another territory or another for protection and safety.

The granting of political asylum is of paramount importance at all levels, especially at the humanitarian level, in the first place, since it is necessary to preserve a political refugee. This political crime or opposition is not a manifestation of a dangerous psychic of the perpetrator, on the contrary, is a national doctrine and a genuine desire to reform the existing regimes, and that their description as a crime is relative, depending on the circumstances surrounding it, the place where it occurred and the political regime that was committed against it.

The criminal character of the political crime or opposition pursued by a political refugee is not as absolute as in ordinary crime, and the difference of view from one country to another and from one system to another is inconsistent with the argument that States have a common interest that requires cooperation among them to combat it.

Thus, political asylum has been established and settled, which has made it possible for political criminals to enjoy territorial refuge without other ordinary criminals.

Thus, it exists and continues, but its existence is undoubtedly necessary as long as its practice is within the limits of the rules on extradition, in the sense that it protects political refugees without other common law criminals.

Section II

Reasons and justifications for granting asylum

There are several reasons for resorting to this type of asylum. For each reason, there is a religious asylum that is motivated by religious or doctrinal reasons. People often leave their country and seek a safe haven because of religious persecution.

There is a regional recourse, which is behind the search for security and safety in the country of refuge because of war or internal unrest or the threat of persecution on ethnic, national or racial grounds, and this type of asylum is the most prevalent in the world today until the world divided between the source of refugees and a future for them) .

Apart from regional asylum granted by the State within its territorial borders, there is diplomatic recourse granted by the State to foreign refugees in its embassy or consulate, and sometimes on board its military vessels and military aircraft stationed abroad.

Under French law 25/7 of 1952, the French legislator introduced a new

type of asylum: constitutional asylum. Under this type, a refugee is subject to the same legal system as a First: Political crime

Political crime means a crime that involves the meaning of attacking the political system of the State, whether on the one hand, on the one hand, and on the other, on the one hand, the violation of the independence and sovereignty of the State, or on the inside, i.e. by seeking to change the form of government or the regime of the authorities or the violation of the rights of political individuals.

It is a crime in which the perpetrator does not seek personal interest and does not reflect the seriousness of a crime, but rather the aim of reforming the country.

Despite this, politicians have dealt with political crime with some arrogance and force. The majority considers that the political criminal is the enemy of the nation and that his crime is directed against the society and the state. Hence, the severe punishment, torture and persecution of all those who begrudge himself.

Such a view is the one that prevailed throughout Europe until the Middle Ages, and it is remarkable that this boasting was not confined to the power-grabbers, but extended to the scholars of the nation and its theoreticians, even the Italian jurist “Rachiliu” went on to: First, then investigate it. Secondly, one of these crimes is the assault and humiliation of his Majesty the King. In the crimes against the state, the door of mercy must be closed; the complaints of the interests of the people must be closed,

Such a view of political crime still dominates the legislation of totalitarian regimes, where criminal policy seeks to intensify the punishment of real political adversaries by creating offenses related to freedom of opinion and formulating them in a way that expands the scope of criminalization and refers them to exceptional judicial bodies where there is no minimum safeguards and are no more than instruments of conviction.

In our view, the gravity of dealing with this type of crime in totalitarian regimes is not as difficult to deal with as it is in the legislative double standards or directives and decisions restricting the legislation in force.

For example, article 21 of the Iraqi Penal Code 111 of 1961 states: “A political offense is a crime committed by political means or based on general or individual political rights. Otherwise, the offense is considered ordinary. The following is political, even if it was committed with political motivation:

1. Crimes committed by selfish motives are repulsive.
2. Crimes against the security of the external bucket.

3. Murder and attempted murder.
4. Assault on the life of the Head of State.
5. Terrorist Crimes.
6. Crimes against honor such as theft, embezzlement, forgery, breach of trust, fraud, bribery and defamation”

The review of the text of article (21) mentioned above clearly suggests the democracy of the Iraqi political system under which the aforementioned text was issued - the regime of the dissolved Baath Party - but the reality of the situation and the special directives issued by the former regime confirm the opposite of this legislative trend.

In 1983, during the Iran-Iraq war, the special security service issued special instructions to the special courts to consider affiliation, sympathy or contact with internal and external parties, political and religious parties and groups as political crimes punishable by death by hanging to death or life imprisonment.

Considering the provisions of this directive, there is a wide difference between the legislative orientation in the Iraqi Penal Code 111 of 1969 as clearly stated in article 21 and the directives of the security services, which served as legislation and the constitution before the special and exceptional courts that were considering political crimes.

It also affirms the direct relationship between the dictatorship of the political system and the expansion of political crime and its democracy and the decline of this scope, which in turn reflects the scope of the circle that accommodates asylum seekers, as Qatar expands this circle to asylum seekers from the countries under the rule of dictatorships, The diameter of the nationals of the democratic states is declining to its narrowest.

In this democracy, political crimes are linked to the security and sovereignty of the state. At the same time, this type of crime is linked to the security of the ruler and the undermining of his regime. This explains the consensus of the dictatorial regimes To the criminalization of the establishment of political parties or belonging to it, and most of them are built if not all of the system of one party, and the so-called totalitarian regimes, the party leader, which is not found in the dictionary of political parties except in the literature of this type of dictatorship.

Second: Political Opposition:

Political opposition comes as one of the reasons that justify the granting of political asylum. The doctrine differed in the definition and definition of political opposition. This may be due to the multiplicity of ideological references and the different basis of the definition.

Some scholars have defined it as “opposing the existing political reality”, relying on the linguistic meaning of the political opposition, while others have defined it as “the forces that carry a radical project to overthrow society and build its alternative model on its ruins.”

This is at a time when some jurisprudence rejects these definitions and stresses the need to combine them in a manner consistent with the limits and content of the political program and the forms of struggle on the basis of which opposes what exists. There are national and national opposition and the third liberal and the fourth communism and other Islamic, including the armed, peaceful, radical and Islamic. .Etc.

But in reality, it can be said that there is no room for defining the political opposition and defining its concept without adopting the nature of the political system under which the opposition operates. In totalitarian regimes, the opposition means hostility to the one who is at the head of power and using the latter as the worst form of violence and oppression with those who disagree with him or not. Support him in the position or on a particular issue, and then there is no room under this system to talk about political pluralism and party or freedom of opinion or adopt a position contrary to that taken by the authority.

Hence, the term political opposition in the literature of the totalitarian regime is prohibited. The author of the authority seeks to establish this understanding with intimidation and encouragement from childhood to the advanced stages of life until the rejection of the opposition is socially and politically established.

Under democratic regimes, the political opposition means the institution that seeks to improve the performance of the government, and assess the work of those who hold power and institutions in a desire to achieve the interests of the homeland and the citizen.

In this sense, the political opposition understands political parties, civil society institutions, public opinion, lobby groups and interests. Political opposition assumes a certain model of political culture, a culture of contribution, in which citizens have a high level of awareness of political matters and play an active role in them. The political system in various ways such as participation in elections, participation in demonstrations or demonstrations, as well as the exercise of political activity through membership in political parties or lobbies.

Thus, the mechanism of action of the political opposition varies according to the nature of the system of government. In democratic regimes, the opposition adopts democratic methods in the face of power and follows

the same methods adopted by those who hold power in taking over power. Political parties and movements, whatever their ideological differences, and regardless of the differences between them, must coexist in a peaceful space through peaceful elections and dialogues, and share the values of freedom in equal expression and protection before the law. Access to power is transferred to the role of the opposition to act as observer, observer and tracker of any defect that affects the performance of the government to correct its course.

There is no doubt that political opposition acting in accordance with this method cannot be a justification for obtaining asylum.

As for the method of political opposition and its treatment of totalitarian regimes, it usually relies on violence and armed struggle. This is often the way to get rid of those in power. Peaceful methods of dialogue and others do not work in dealing with totalitarian regimes. Armed, and again to deal with countries and external forces hostile hostility with those who hold power.

Certainly, the adoption of such methods to weaken the totalitarian authority would allow it to oppress and oppress the opposition, which would justify granting it political asylum.

Third: Persecution

We have already dealt with the definition of a refugee as a fugitive from persecution, and therefore the right to asylum is linked to existence and persecution.

Persecution is defined as: organized discrimination against an individual, group or minority carried out by or involving a government, complicit with its perpetrators, denying its existence, or creating the climate that it encourages or does not undertake to resist and mitigate.

According to this definition, persecution is inextricably linked to discrimination without specifying its type or who is in opposition to it, sometimes discrimination against an ethnic minority, sometimes discrimination against a religious minority, and a third discrimination against a national minority. Such discrimination is not surprising or draws attention to the fact that it is used in the face of the minority, and almost none of the world's least developed countries are discriminated against, and this infection has spread to the more developed countries of the world.

But it is surprising that the majority minority is persecuted for religious, national, ethnic or racial reasons. Such persecution is increasing, especially in the less developed and rich countries of the world, where the minority is dominated by military coups and dealing with foreign agendas Plan in

return for staying in power.

This explains the steady increase in the number of asylum seekers in the less developed, richer and more inclusive countries of the world, where the administration of power in most of these countries has been dominated by rulers who came to power through military coups or followed in their wake after turning against those who carried them out.

Under these regimes, those who hold power from oppression and oppression take a method of governance and suppression of freedoms, taking exceptional circumstances and political instability to justify their rule in such a manner. It is remarkable that this argument serves them to justify persecution and throughout their decades-long reign.

Under these regimes, persecution takes many forms, including political ones. This is usually the case in the face of political opposition or against the general public, which does not support the power-holders or the enemy. Under totalitarian regimes, the term political opposition does not exist in its political dictionary. The Authority does not support or oppose an enemy that must be uprooted. Everyone should support the Authority publicly and bless its actions, even if they are unjust or dictatorial.

National oppression under these political regimes is under the umbrella of political persecution, as the author of his nationality often seeks power to suggest to the nationality to which he belongs to other nationalities or to his nationality as a means of persuading them or inciting them to other nationalities, which helps achieve two goals. The importance of strengthening the system of government through gaining national support for him, and weaken other nationalities by finding those who espouse hostility or reject their policy and positions of power grabbing, which explains the necessary link to the milk of national and political discrimination under totalitarian regimes.

Under the umbrella of political persecution, religious and doctrinal discrimination comes into being. It is often believed that those who hold power in dictatorships and totalitarianism are the most dangerous to their systems, which explains their hostility to the clergy and to restrict the exercise of religious freedom to the fullest extent.

As a way to prevent the danger of this factor, totalitarian regimes usually seek to fuel the religious and sectarian rivalry between different religions and sects, and to support the followers of the religion or doctrine of the power holder as a clear belief that weakening and neutralizing this factor will provide the strongest support for their system of government. Religious persecution through the ages and in all monocratic or monocratic

systems.

Political persecution was not only politically motivated, but also motivated by national, religious, sectarian and racist factors.

Thus, there are a number of different factors or reasons that justify the granting of political asylum, ranging from political, national, racial, religious and sectarian. All these justify the granting of political asylum, especially in the context of totalitarian regimes that inhibit freedoms and restrict rights.

The second topic:

The distinction between the right to political asylum and the suspect, and the principles governing the right to asylum

Conflicts between political asylum and other similar issues are often confused, such as the principle of non-extradition of political criminals, as well as between extradition and extradition of terrorists, as well as between illegal immigration and illegal immigration.

It was necessary for us to determine and understand the concept of the right of political asylum to clarify the difference between him and other suspected issues, in addition to clarifying the principles on which the right and control of this right.

Hence, the subject of the topic in question is dealt with in the first requirement: the distinction between political asylum and political asylum, and the second requirement of: principles that are complementary to political asylum, as follows.

First requirement:

Discrimination and political asylum

It has been said that the right to political asylum is close to other concepts, perhaps to the unity of reasons in each, or to the unity of purpose, or the legal system, or in terms of the extent of protection provided by each, which requires clarification of each issue to clarify the difference.

We address a number of these concepts each in a separate section of this requirement as follows.

First branch:

Discrimination against political asylum:

The principle of non-extradition of political criminals was synonymous with political asylum until the end of the nineteenth and early twentieth century's. Perhaps this confusion between the right to political asylum and the principle of non-extradition of political criminals was the result of the two principles ending with the same result: the extradition of refugees and the political offender persecute him or demand his extradition.

But the difference between them can be avoided through several aspects, the most important of which:

First: in terms of reasons:

The prohibition of political extradition is on the perpetrators or accused of political crimes, while political asylum is granted on charges of political offenses or opposition to those in power, particularly in less democratic countries or because of the persecution of asylum seekers because of their political views or Religious or sectarian beliefs, origin, race, class decline or other reasons other than those, and that is where distinctions are made and therefore the frequency of political asylum is high.

Second: In terms of the legal system:

Both rights and principles differ in their respective legal systems. While political asylum is subject to the legal regime for the treatment of aliens, the principle of non-extradition of political offenders is governed by the body of international norms to which the State has committed itself in the area of international cooperation against crime.

Third: In terms of purpose:

The difference in this regard is that the asylum system seeks to protect basic human rights, especially since these kinds of rights are more at risk and persecution, especially in countries that still sanctify rulers and consider themselves to be inviolable and cannot be subjected even to The expression of opinion or criticism, where political rights are considered exclusive to a particular category, and therefore the claim is in itself a crime and justification sufficient to bring down the most severe sanctions or oppression and persecution.

While the system of non-extradition of political criminals seeks to protect the perpetrators or accused of these crimes, since political crime does not express a dangerous psychological appearance of the perpetrators, often motivated by a national faith and a sincere desire to reform the existing political system.

In addition, the description of the crime is relative, depending on the circumstances surrounding it and the political system that was committed against it. Whoever is classified as a criminal under a particular political system may be considered patriotic under another political system. The criminal offense of political crime is not absolute, of the ordinary crime and the difference of view from one country to another and from one political system to another, which is not consistent with the argument that States have a common interest that requires cooperation among them to combat it, as is the case with ordinary crime.

Fourth: in terms of the extent of protection provided by both systems:

The right of political asylum protects the refugee from the evils of oppression, persecution and abuse, and makes him and his family live in security and security on the territory of the state that granted him asylum as a citizen. His state cannot demand his extradition after he was granted asylum. While the principle of non-extradition of political offenders could be easily circumvented, particularly by dictatorships, since a State might demand that a political offender be extradited on the grounds that he had committed one of the ordinary crimes in which extradition might be granted even if he had recovered it The principle of non-delivery is discharged from its content and content.

In order to confront this circumvention, some democratic regimes resorted to adopting a number of solutions, including the expansion of the concept of political crime by taking into account the circumstances and circumstances surrounding the person required. For example, the Austrian Supreme Court decided on 29/5/1958 to refuse to extradite a refugee on charges of ordinary crime, where the circumstances and evidence surrounding the request for extradition referred to the intent of the requesting State to extradite the wanted person because of his political views.

In the same vein, the European Convention on Extradition for the year 1975, which states in paragraph (2) of Article (3): “The same provision - non-extradition - applies if the requested State has strong grounds to believe that the application One of the ordinary crimes is in fact submitted for the purpose of prosecuting or punishing him for his element, religion, nationality or political opinion, or if it is found that the latter’s status may be prejudiced for any of those reasons “, article 3, Of the Caracas Convention on the Territorial Refuge of 1945, to extradite the persecuted for political reasons or crimes Eurasia ..

Article 1, paragraph (f), of the 1951 Convention on the Rights of the Child, which excludes from the scope of its application persons who have strong grounds for non-political crimes, has also affirmed that persons who commit political crimes have the right to seek asylum.

Section II

Discrimination between political asylum and the extradition of terrorists:
The concept of a political refugee refers to the person who has not committed any criminal offense in accordance with the principles of positive law, but whose asylum has been taken to a country other than that of his nationality because he has acquired political views contrary to the political system in his country, which is a threat to him as a result of acts that may

be oppressed because of it ..

Therefore, if he fled from the state that he follows as a citizen - as one of his nationals - that is, if he escaped from the state of his unjust state he would not be a criminal, but would be in a state of legitimate defense for himself. This situation led him to leave his state to a foreign country where residents enjoy freedom of opinion and expression and a fair law guaranteeing rights and freedoms through its criminal procedural legislation.

This has made the right to political asylum suspected of other things such as extraditing terrorism, since crimes of terrorism are crimes that go beyond the borders of the state, especially after it facilitated modern means of transport and helped in the escape of the terrorist abroad in most cases. The old tradition was that the “political offender” or the “political terrorist” should not be extradited, but these old traditions did not mean that the political terrorist was not to be extradited to protect him but intended to protect the politician or member of the party against the unjust laws formulated to restrict Freedom and movement to express his political views. With the liberation of societies that advocated this principle and the penetration of freedom of opinion and expression, the principle of the inadmissibility of extraditing a political terrorist should cease to exist after the reason for its existence has been eliminated.

Hence, the principle of extraditing the perpetrators of terrorist crimes (political) or the most accurate terrorist criminal hiding behind politics must be eliminated, but it remains the same for granting the right of political asylum to the deserving student.

Section III

Discrimination in terms of political asylum and illegal migration:

The phenomenon of migration and political asylum is an old phenomenon that is old, by virtue of the human nature that has led to a solution to the problem of migration or persecution.

However, repression involves a delicate problem of knowing the standard of separation between legal immigration and its progressive development, and of political asylum as a form of interference to a foreign State in order to protect itself from prosecution as a result of crimes of opinion or as a result of the adoption of political views or ideas.

Illegal, or irregular migration is a global phenomenon that exists in developed countries such as the United States of America, European Union countries or developing countries in Asia, such as the Gulf States, the Arab Mashreq countries and Algeria, and in Latin America. Some countries, such as Argentina, Venezuela and Mexico, Illegal immigrants coming

from neighboring countries.

There is a dividing line between illegal migration and political asylum, which is illustrated by two approaches: the socio-economic and political approach; and the second is the legal approach.

As for the Socio-economic and political approach, we find that it is related to the causes and motives behind the phenomena of political asylum and illegal migration, as the secret migration is often driven by social and economic reasons. The most important are the growing poverty, the isolation of the rural world, Unemployment, rising foreign indebtedness, and wars, all of which led to mass exodus and illegal migration of politically, socially and economically stable countries.

Political reasons are the motive for seeking political asylum. Asylum comes as a result of escaping from political and repressive oppression and fear of life or freedom from the tyranny of autocratic and dictatorial regimes.

Then comes the legal approach, which is to compare the legal status of the illegal immigrant to the legal status of the asylum seeker, and in fact there is an entrenchment of political asylum in international covenants, constitutions and national legislation.

Illegal or secret immigration means the person entering a foreign country in secret by crossing the land, sea or air borders by using fraudulent means to evade the necessary official travel documents, by using forged means or fake names, or by exiting and entering from unplanned places especially for it.

Political asylum is the status of a person who resorts to a foreign country for residence, seeking protection because of fear of being harmed by his or her ideas, beliefs or political opinions.

The second requirement

Principles governing the right to political asylum:

In order to emphasize the difference in the concept of political asylum from the issues that we have raised in order to address the principles governing the right to political asylum, this will make it even clearer.

The most important principles governing the right to political asylum are the following four principles.

First branch

The principle of non-response or expulsion and non-delivery:

The principle of non-refoulement means the prohibition of the expulsion or return of refugees to the borders of territories and countries where their lives or freedoms are endangered by their political views, whether formal-

ly granted refugee status or not.

The irreversibility of one of the great victories of universal justice and humanity of international law, both for asylum and for political refugees, as well as for the protection of human rights in general.

This principle ensures that States respect the protection of the political refugee's right and ensure that they do not fall into the hands of the authorities of the state which persecutes or threatens it. On the other hand, this principle does not prejudice the sovereignty of the State or diminishes its freedom to accept aliens within its territory. A refugee is initially free to accept or reject a refugee, but in the event that the State decides not to allow the refugee to enter or remain in its territory, it shall not take measures such as expulsion or deportation that would force him to return to a State whose life or liberty because of partisan affiliations or political views.

In this sense, the principle of non-extradition of political criminals must be implemented. The principle of this principle provides fundamental protection for refugees who have committed such crimes. This principle played a crucial role in the protection of asylum during the nineteenth century, or else to grant the right of asylum, because the question of the right of asylum arose only on the occasion of the request to extradite one of the political criminals.

The refusal of the state to answer such a request is often due to its intention to grant asylum or political asylum to those who refused to extradite it. However, since the early twentieth century, the asylum system has been characterized by the principle of non-extradition of political criminals. To grant refuge to him.

This principle, however, represents an important guarantee for refugees who have been charged or sentenced in a political offense. Even if they do not have the right to political asylum in the State on their territory, the application of this principle prevents them from falling into the hands of a state the persecution that they claim.

The principle of non-refoulement governs five rules of contemporary international law:

1. That reservation may not be made to the text or legal texts that it decides, in view of the serious consequences thereof.
2. That it may not be issued under any circumstances.
3. It is considered to be part of customary international law and is therefore binding on any State regardless of its association with any treaty text.
4. That it has the nature of *Jus cogens*, and therefore cannot be

agreed to the violation, and is null and void such an agreement, and is one of the binding reasons for refusing extradition.

Section II

The principle of the inadmissibility of imposing sanctions on a refugee who enters or is illegally present in the territory of the State in international law

Article 31, paragraph 1, of the 1951 Convention relating to the Status of Refugees states that: “contracting States shall not impose sanctions on the admission or illegal presence of refugees who come directly from a territory in which their life or liberty is threatened in accordance with article 1, of this convention if they enter or are present on their territory without permission, provided that they present themselves without delay to the authorities and show a valid reason for their entry or illegal presence “.

This means not imposing sanctions on the entry of a political refugee, but this is governed by four conditions:

1. That his life or freedom be threatened because of his views or political beliefs.
2. The refugee shall submit himself without delay to the authorities.
3. To prove that there is a valid reason for his entry or presence on the territory of the state that is the subject of asylum.
4. The refugee must come directly from the territory where his or her life or freedom is threatened by persecution. This means that the refugee arrives directly from his country of origin or from another country where he has not been protected and protected from a country of transit for a short period without applying for on asylum.

Paragraph (2) of the above-mentioned article adds that contracting States may not impose restrictions on the movements of such refugees other than those which are necessary until “their status is settled in the country of refuge or accepted in another country” and contracting states shall “reasonable, and lying all the necessary facilities to get the acceptance of another country to enter it “.

Section III

The principle of the human nature of the right to political asylum and non-discrimination

When the right to asylum entails the safety of a person subjected to persecution, his human nature is not hidden from anyone, but rather lies in the very roots of that right.

This right is reflected in the necessity of relief, urgent and urgent, and from this point of view was a refuge of mercy and justice given to a person ex-

posed to the violation of fundamental rights and freedoms

The principle of discrimination in this regard is redundant, since it constitutes one of the fundamental principles of international human rights law in general, and of the right to political asylum in particular.

Article 3 of the 1951 Convention relating to the Status of Refugees states: “contracting States shall apply the provisions of the convention to refugees without distinction based on race, religion or country of origin”.

Thus, the right to political asylum is granted to all who seek it regardless of religion, sex, color, wealth or any other consideration, as long as the person is oppressed and meets the conditions stipulated in international and national laws.

The third topic

constitutional and legal embodiment of the right of political asylum in the 2005 constitution of Iraq

We have examined the right of political asylum as one of the most important rights and freedoms of individuals under the Iraqi constitution in force in 2005, which is the first permanent constitution in the republican era, through studying the nuggets of these rights and freedoms in a critical analytical way to stand on the reality of these texts in terms of formality and positives and the extent to which these texts could be put into effect after the preamble of this constitution has focused on the violations committed against the Iraqi citizen and other human beings in general during the previous regimes, suggesting that this constitution did not apply T really only to ensure Iraqi human rights and happiness, as well as the human presence on the territory’s desire to security and protection from the oppression and torture that might be incurred from his residence in his native country.

First requirement

Overview of the position of the arab constitutions in general from the right of political asylum. The right to political asylum is linked to or charged with political crime. It is noted that the granting or blocking of this right and the surrender of the accused to political crime vary in constitutions and laws from one state to another. This disagreement is certainly the result of differences and differences in understanding the meaning and scope of the political crime.

This difference in understanding is due in part to the ambiguity of the meaning of politics and the absence of a specific concept. It is a changing idea from time to time. It is in the countries of the first-western world. It means advancement and participation in the management of the affairs of the state; in the third world it means lines that cannot be crossed or and

even to approach them, being a monopoly on a particular category, which leads to the limited political irregularities in the first world and its expansion in the third world ..

The French Constitution of 1793 is the first constitution that provides for the right of political asylum. The French constitutional legislator enumerated article 120 to regulate this right, stating that: "The French people give refuge to foreigners who are expelled from their homeland because of the cause of freedom and refuse to give it to tyrants".

This right was affirmed in the preamble to the 1946 Constitution, which states: "Every person persecuted for his activities in the area of bayonet shall have the right to asylum on the territory of the republic".

It is noted that the two texts mentioned above do not recognize the right of political asylum to crime or political opposition, but they have ratified this right to defend the principles of freedom, which would extend the scope of this right to all those prosecuted on the basis of freedom and human rights. This release would also put an end to the difference in defining the concept of political crime, opposition and persecution and so on, which have raised and continue to raise much of the jurisprudential and legislative controversy.

While the Constitution of 1793 established this right in Article 120 of the Constitution of 1946 in its Preamble, which confirms the constitutional legislator's keenness to give this right special importance, as evidenced by the preamble in his preamble, and in the organization on the rest rights..

In this regard, it is noted that the arab constitutions did not adopt a unified position on the right of political asylum. Some of them explicitly stipulated this right, including those who referred to the law, and the third was the ban on the extradition of a political refugee without explicitly stating that right. no reference to it.

In this regard, we will only have to circumnavigate some Arab constitutions without the west to see their respective positions on the right to political asylum. Some of them, as already stated, regulate the right to asylum by explicit and explicit provisions, while others refer to laws and ordinary legislation in organizing this right. It is prohibited to provide asylum to asylum seekers, but without providing an alternative basis for rest, and a fourth group of constitutions provides for the right of asylum and prohibition of extradition, in four branches as follows.

First branch

Constitutions that expressly provided for this right:

The first trend of the Arab constitutions went into explicit reference to the

right of political asylum, including the Somali Constitution of 1969, which states in paragraph 3 of Article 19 that: “A refugee who is subjected in his home to trial for a political offense has the right to asylum in the territory of the state In cases and under the conditions provided for by law “.

Here, the Somali Constitution of 1969 grants political asylum, but the condition of certain conditions, as well as conditions stipulated in their statement to the Somali law.

This constitution also includes the Egyptian Constitution of 1971, which states: “The State shall grant the right of political asylum to every foreigner who has been persecuted for defending the interests of peoples, human rights, safety or justice, and the extradition of refugees is prohibited”), And it has not changed as it is much in the Egyptian Constitution in force in 2012 and the rate in 2014, where he maintained the same wording in Article 91, which stipulates: “The State to grant political asylum to every foreign persecuted for defending the interests of peoples Human rights, peace or justice, and the extradition of political refugees is prohibited, all in accordance with Law “..

It is noted that this text expands upon the cases under which the right to asylum is granted in relation to the above mentioned Somali Constitution (the interests of peoples, human rights, safety, and justice). The Egyptian constitutional legislator has used broad and broad terms that give the competent authority the granting of asylum it exercises this jurisdiction.

The Saudi Constitution of 1992, which states in article 42: “The State shall grant political asylum, if the public interest so requires, and the rules and procedures of ordinary extradition shall be determined by international regulations and conventions”.

The Saudi Constitution, in this respect, is also used in its statement as a general term for granting political asylum, but the term used is somewhat ambiguous, where the term “public interest” has been used. Indeed, this term raises the important question: Taking into account his interest in granting asylum, is it the interest of the asylum seeker? Or the interest of the donor country - Saudi Arabia -? or the interest of both?

These and other questions can be raised by the term “public interest”. The Saudi constitutional legislator should have been more specific and clear in his statement because of the granting of political asylum.

Section II

Constitutions referred to the ordinary laws and regulations governing the right of asylum:

The approach of the second trend of the Arab constitutions is the referral approach in all matters relating to the regulation of the right of political asylum to the laws and legislations issued by the Parliament. It is in fact a logical matter, considering that the constitution regulates the principle or basis and then details the relevant laws and legislations. Among the most important constitutions that were carved towards this trend are the Qatari Constitution of 2003 and our constitution of Iraq in force for the year 2005. Article 58 of the Qatari Constitution states: "The extradition of political refugees is prohibited, and the conditions for the granting of political asylum shall be determined by law."

The Constitution of Iraq in force in 2005 is more detailed - as we shall see later - in the organization of this right, where paragraph (I) of Article (21) of it: "prohibits the extradition of Iraqis to foreign authorities and authorities" ..

However, it should be noted that such a text no longer refers to constitutions usually, especially after the spread of democratic principles and the consolidation of the principles of human rights and citizenship, the citizen no longer was a bargaining chip or pressure on the other party to achieve some political gains or resolve a dispute, The constitutional legislator al-Raqi mentioned this text as a reflection of the reality experienced by the Iraqi citizen under the constitution of 1970 abolished ..

In paragraph (2) of the aforementioned article 21, the Iraqi Constitution referred to the law to regulate everything related to the granting of political asylum in Iraq. At the same time, it prohibited the extradition or forcible return of the political refugee to the country from which he fled."The political asylum is regulated by Iraq by law, and it is not permissible to extradite the political asylum to the foreign party or forcibly return it to the country."

The second paragraph of Article 21 states that: "No political asylum shall be granted to the accused for the commission of international or terrorist crimes, and the right to the right to return to Iraq".

This limitation appears to be logical in that it is consistent with the provisions of certain international conventions and security council resolutions. The 1973 New York Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons explicitly stated that terrorist offenses against persons protected persons can not in any way be considered political crimes, and have also required the extradition of the accused. "

Article 9 of the 1991 Convention on the Suppression of the Financing

of Terrorism also obliges all States parties not to reject requests for extradition or mutual legal assistance for offenses of the convention on the grounds that they are political offenses.

Such a commitment was made in accordance with security council resolution 1377 of 28 September 2001. Under the second item of this resolution, all States are obliged to extradite those accused of financing terrorism.

Section III

The constitutions that provided for the prohibition of the extradition of a political refugee without explicitly providing for the right to asylum:

The tendency of the Arab constitutions to explicitly prohibit the extradition of a political refugee, but without expressly stating the right to political asylum, has certainly gone beyond the fact that the intention of the constitutional legislator is undoubtedly to guarantee the right to political asylum. It is acceptable to scrounge the delivery ban without guaranteeing this right originally.

Among these constitutions adopted by the Jordanian Constitution of 1952, which reads as follows: “1. Political refugees shall not be extradited due to their political principles or their defense of freedom. 2. International conventions and laws shall specify the assets of ordinary extradition”, the Tunisian Constitution of 1989, That “the extradition of political refugees” is prohibited, and the 1996 Algerian Constitution, which stipulates that: “In no way can a political refugee be legally recognized or expelled for the right to asylum”, and the Yemeni Constitution of 1990, : “The extradition of a political refugee is prohibited”, and the Palestinian Constitution of 2002, which states that “ The legal refugee who has the right to asylum and the regulation of the extradition of foreign ordinary suspects in accordance with international conventions or treaties “and the 1973 Syrian Constitution, which states:” political refugees shall not be extradited because of their political principles or their defense of liberty “ Which states that: “The extradition of political refugees is prohibited”, and the Kuwaiti Constitution of 1962, which states that “the extradition of political asylum seekers is prohibited” and the 1971 UAE Constitution, which stipulates that: “The extradition of citizens and political refugees is prohibited” , And the Omani Constitution of 1996 which stipulated that: “the extradition of refugees For politicians is prohibited and international laws and conventions define extradition provisions “.

The texts of the above-mentioned Arab constitutions, which adopted this trend, are somewhat similar in the drafting of these texts. The text of the Jordanian Constitution in its first paragraph and the text of the Syrian Con-

stitution are identical. It is very similar to the Tunisian, Yemeni, Bahraini, Kuwaiti, Emirati and Omani constitutions. Which suggests that the texts of these constitutions should be quoted and transmitted to one another without paying attention to the need to provide for the right to political asylum first and then to provide for the prohibition of extradition.

Section IV

The constitutions stipulate the right of asylum and prohibition of extradition:

The recent trend of the arab constitutions has gone neither to the text nor to the political asylum or to the prohibition of the extradition of a political refugee, nor to the regulation of the right of political asylum to ordinary laws and legislations issued by parliament.

Perhaps the reason behind adopting this trend is to depart from the intention of the constitutional legislator implicitly to refer the organization of this right to law or ordinary legislation, since the fact that the absence of a constitutional provision on a particular issue does not prevent the law from organizing it. On the contrary, the majority of ordinary legislation is issued by parliaments and councils without the explicit referral of the constitutional legislator.

Among the constitutions adopted in this direction are the Lebanese Constitution of 1926, the Djibouti Constitution of 1977, the Mauritanian Constitution of 1991, the Moroccan Constitution of 1996, the Sudanese Constitution of 2005 and the Algerian Constitution of 1998.

The constitutional law was the first to explicitly state this right to demonstrate its importance. It was stated that the constitution provided only the most fundamental or important principles that demonstrated the political philosophy of those in power, and the provision and sponsorship of political rights has become one of the most important indicators of the democracy of the political system, and the holders of power under him ..

The second requirement

Constitutional and legal texts governing political asylum in Iraq

Introduction:

First branch

The right of political asylum under the Iraqi constitution in 2005. In accordance with Article 15 of the Iraqi Constitution of 2005, which grants the right to life, security and freedom by saying: "The right to life, security and liberty shall not be denied? These rights may not be denied or restricted by law. Based on a decision issued by a competent judicial body, In

particular by granting him the right to security and thus to resort to the territory of Iraq because of his persecution or political opposition against his government.

Here, the Iraqi constitution - as mentioned above - among the few constitutions referred explicitly to the right of political asylum, and indeed organized it in some great detail in article (21) of it in proportion to the importance of this right.

This organization may have reflected the suffering of the Iraqi people under the previous regimes of political persecution, until Iraq became a tool for political bargaining, but its handing over to any regional, foreign or international body was normal and did not raise the issue, which reflected its value as an individual or citizen. A high-minded and dignified person has been seen as a bargaining power or a less valuable individual than any of his fellow nationalities.

As a reflection of this fact, Article 21 (1) of the Iraqi constitution expressly states that "Iraqi extradition is forbidden to foreign authorities and authorities". Such a ban would certainly help to restore Iraqi citizens to the status quo,

In accordance with the provisions of international treaties and conventions, the aforementioned paragraphs (II, III) of Article 21 prohibit the extradition or forcible return of a political refugee to the country from which he has fled, unless he is accused of an international, terrorist or "The second is to regulate the political asylum to Iraq by law, and it is not permissible to extradite the political refugee to the foreign side or to return it forcibly to the country. The third is not to grant political asylum to the accused to commit international or terrorist crimes, and he is not bound by the right to return to Iraq."

In fact, this exception was in line with the provisions of some international treaties, conventions and resolutions of the Security Council, especially after the spread of this type of crimes, and therefore we find that the Iraqi constitution came in line with international legitimacy in the exclusion of accused in international crimes and terrorism from political asylum.

But he added at the end of paragraph (III) a vague phrase: "Political asylum cannot be ruled out ... the right to the right of Iraq." Such an exception might raise the question: How does Iraq grant asylum to a person who has harmed it?. This exception is a fact that does not correspond to the context of the text and its purposes, whether the accused is an Iraqi or a foreign national, and therefore we believe that this phrase has no place in it.

Section II

The right of political asylum in Iraqi legislation and the conditions for granting it:

The right of political asylum in Iraq is one of the most important rights sponsored by the Iraqi legislator and his attention and attention paid attention to a long time ago, which is calculated for him the fact, and evidence of that of his individual and organized by a special law called his name.

The status of refugees in Iraq is regulated by the law on Political Refugees issued by the Iraqi legislator, Law No. 51 of 1971, until a new law has been drafted.

Under this law, refugees and asylum seekers can access a wide range of social services when their residence is authentically documented in Iraq, and the services, rights and privileges granted to political refugees already residing in Iraq will be discussed later when Iraq is at the forefront of protecting political asylum .

According to reports by the United Nations, no reports have yet been received by the Office of the United Nations High Commissioner for refugees concerning the expulsion or deportation of political refugees. It has also stated that the government of Iraq's commitment to the protection of refugees granted refugee status under the former regime is commendable. The Iraqi legislation does not grant the right to asylum only, but after granting the right to political asylum, the ban on the extradition of a political refugee to his country in any way, even in the case of the rejection of the request for political asylum as a result of the loss of any condition of grant, provided for the deportation of a political refugee to a State other than his own in order to ensure that he was not extradited to his State.

This is stated in Article (4) of the Political Refugees Law No. (51) For the year 1971 which stipulated that:

- 1- The refugees are not allowed to take their country out of the country.
- 2- When the request is rejected, the applicant must accept the request of the Iraqi to be deported to the State, which is to be transferred to the Chamber of Deputies with the approval of the minister.

Article (21) of the Iraqi Constitution of 2005 stipulates that: "Political asylum shall not be granted to the accused for international crimes or terrorism, or the right of the people of Iraq."

It is clear from this article that the Iraqi constitution requires three conditions for granting asylum:

- 1-That the applicant should not be subjected to international crimes.
- 2-Anglican is called upon to use their policies to commit terrorist crimes.
- 3-Analycon is the political asylum seeker of Iraq.

In fact, we do not know what the Iraqi constitutional legislator means by saying “accused” in the above-mentioned article. Does this mean that a political asylum seeker should not be granted this right if he is merely “accused” of international or terrorist crimes? or is it intended to convict in the sense that the intended person is convicted and sentenced already? However, it seems to us that the Iraqi constitutional legislator has the first meaning that once a person has sought political asylum accused of international or terrorist crimes, he is not granted political asylum and does not require that he be sentenced to conviction.

On the other hand, Iraqi law - the ordinary legislator or the parliament - has also stipulated conditions for granting a person the right to political asylum. These conditions are stipulated in Article 3 of Law No. 51 of 1971, which stipulates that: “No person shall be granted the right to seek asylum.

1 - as a disease.

2 - To prove his willingness to resort to the Republic of Iraq.

3 - The only way to find a way to live.

4 - Do not make a mistake or ask for it “..

International conventions and covenants have stipulated the following objective conditions:

A-The asylum must be the result of fear of persecution against the person because of his nationality or because of the social body involved, or because of his political ideas.

B- An asylum seeker must not have committed a crime of peace, war crime, crime against humanity or a serious offense under common law outside the country of his or her income before he or she has been admitted as a refugee.

C- The asylum seeker shall not be accused of acts contrary to the purposes and principles of the United Nations.

D- Subject to laws, regulations and measures to maintain public order and ethics.

If these conditions are met, the status of the political refugee is granted. The competent authority of the receiving State shall begin to extract the documents and official papers necessary to prove their identity and legal status.

Third requirement

Iraq has taken the lead in protecting asylum:

Despite the somewhat unstable situation in the State of Iraq, it can be said that it is moving steadily and confidently towards gaining the confidence of the international community as much as it considers the right of political

asylum, at least by organizing this right from a legislative and legal point of view. .

By reading the texts of the Political Refugees Law No. 51 of 1971 at first sight, it is clear that the Iraqi legislator is very interested in the right of asylum and asylum seekers and those who are already refugees and are on the territory of Iraq and how he aspires to assume the summit position in the protection of this great human right.

Some of the texts and articles of this law that are self-explanatory have been phrased - really - in the form of the most wonderful - from our point of view - so that they do not need any analysis or explanation, and these texts that show that the Iraqi legislator gave this right that importance The following:

Article 5 of the Political Refugees Law No. 51 of 1971 stipulates that:

1. The Permanent Committee of the Permanent Committee for Political Refugee Affairs shall be chaired by the Ministry of the Interior of the General Directorate of Omnipotence. It shall be chaired by:

A- representative of the Council of the Revolution, General Relations.

B - Representative of the Ministry of Interior.

C. Representative of the Military Intelligence Directorate.

D- Representative of the Public Security Directorate.

The representative of the general public administration.

2. The Committee of the Ministry of the Interior is responsible for the administrative and financial aspects of the salaries, allowances and expenses of the refugees.

3. The Committee on Refugee Affairs shall be responsible for the instructions issued by the Minister, and the investigation of persons residing outside Iraq may be deposited with the Iraqi diplomatic bodies.

4_ The Committee of the Committee of the Committee on the Rights of Persons with Disabilities and the Ministry of Interior and Social Affairs, The first concern of the Iraqi legislator is the establishment of a permanent committee based in the capital, Baghdad, to be called the Permanent Committee for Refugees' Political Affairs, which deals with all matters of political refugees in terms of administration,

Article 11 of the Iraqi Political Refugee Law also provides for the granting of rights and benefits to the Iraqi citizens in full, so as to guarantee a decent and humane life, and in particular the provisions of this article:

“1 - To enjoy the detention of asylum in Iraq, the rights of Iraqi citizens in the following matters:

- A. To benefit from the services of health and culture.
- B. Business and business practices.
- C. The agricultural land law is governed by the law of the reform of agriculture, which includes the land of land, land, land, and land.
- D. Employment and use of the Minister's approval.

2 - The President of the Republic, on the proposal of the Minister of Refugees, their rights to other rights, including the Iraqi citizen.

3_ Ishmael of the right of asylum to the observer to provide him with his family members and their dependents in advance, and grant the next of them to establish the status of his family to seek asylum “..

In order to ensure a decent life for the political refugee in Iraqi territory, the Iraqi legislator approved the granting of monthly allowances or payments to the refugee in case he is able to work in the public or private sector to help him manage his living expenses. In paragraph (1) of Article (13) Of the Iraqi Refugee Law states that:

“1. A refugee shall receive a monthly allowance when he or she cannot manage his or her living in an official or quasi-official office ...”

Conclusion

included the most important findings and recommendations

We finished the grace of Allah Almighty to complete this research is marked by “constitutional embodiment of the right of political asylum under the Iraqi constitution in force 2005”, and we reviewed it with regard to the subject matter hereof in terms of the concept of political asylum and its causes, and the importance of him, and the distinction between him and suspected him of issues, and then the statement of principles that govern it, and then Arzina then the Iraqi Moagafalmushara of this right, in the Iraqi constitution in force 2005, as well as in the ordinary Iraqi legislation, has Osbakna we view the positions of Arab constitutions of this right, and how the Iraqi constitution held the lead in the quality of this organization Constitutional and legal right.

In fact, it was clear to us after the conclusion of this research, after the modest effort we have made, that its subject matter is very important - from our weak point of view - at least that importance that stems from two things:

First, the important role represented by the right of political asylum in protecting political opponents and keeping them from the totalitarian regimes dictatorship, especially in the third world countries, including the Arab countries, unfortunately.

Second, there is no one who is exposed to this subject, not so far from far

away, as we think of a unique research, which leads us to recommend that one of the researchers get him to deepen it further.

The research on this subject has resulted in a set of conclusions and recommendations which we would like to conclude at the end of the report. We will first explain our findings and then follow them with the recommendations we make. We address these as follows.

First: Results

The main findings of this research are:

Is the right of political asylum in accordance with a peaceful and humane, should be treated as an act amicably by any State in particular countries that have made great strides towards democracy and respect for human rights, it is established and maintained the right and his presence should be unquestionable, in particular, and practice it is not any conflict With the sovereignty of the State, but as a result of that sovereignty, as long as the practice was within the limits of the rules on extradition, which meant that its rules protected political refugees without the offenders of common law. The right to political asylum must be clear away from suspected subjects, particularly the issue of extradition of political criminals.

The right of political asylum in third world countries is linked to the existence and the absence of a democratic authority in this country, and is achieved at a time when political opposition to demand democracy and respect for human rights and fundamental freedoms free from persecution, oppression and abuse.

The judgment on the effectiveness of the right of political asylum but judged in terms of reality and the application, as it may embrace many countries political refugee to escape the oppression and persecution in their own countries, without the Constitution provides for the right to sufficient availability of the conditions for granting this right, and follow the procedures provided They have their own laws.

The Arab constitutions have adopted in their organization the right to political asylum in four directions, including: the explicit text on this right, such as the constitution of Somalia, Egypt and Saudi Arabia, including: the law referred to the organization of everything related to this right, in addition to the constitutional text such as the constitution of Iraq and Qatar, the prohibition of extradition political refugee without the text on the right of asylum originally Jordanian such as the constitution and Tunisia and Yemen and the Palestinian, Syrian and Bahrain and Kuwait and the UAE, including: what is his silence was about the organization of this right Lebanese such as the constitution and Djibouti and the Mauritanian and

Moroccan and Sudanese and Algerian.

A few Arab countries have enacted a law regulating the right to asylum, a mother who suggests that this right is not important in that country, or at least is not serious in organizing it for not believing in it at all.

The right of political asylum in the less developed countries, including the Arab countries, is often a political bargaining chip rather than a belief in this right, which explains the reluctance to seek asylum in arab countries or to take temporary refuge until the country of safe residence is chosen.

First: Recommendations

The main recommendations that we would like to recommend at the end of this research are:

The time has come for the Union of States in our Arab and Muslim world to agree on an agreement that has been advocated by Egyptian and Arab jurisprudence in general, which clarifies the meaning of the right of political asylum and the provisions of the extradition of terrorists among them. This is in addition to the need to provide explicit text in all arab constitutions regulating this right, not only to refer to the inadmissibility of the extradition of the political refugee as the majority of the arab constitutions went, with the ordinary legislator's commitment to enact legislation regulating the right of political asylum, The Iraqi legislator did, providing all the real guarantees for the asylum seeker.

Research Summary

The disturbances and ambitions in the international, regional and local environment led to the emergence of many cases and various forms of asylum seeking safety, including political asylum. This led us to clarify the position of our constitutional and ordinary Iraqi legislation on this right.

We have explained through this study the concept of the right of political asylum and its importance in protecting the asylum seekers from the burden of persecution and torture, and the compatibility of Iraqi legislation with regard to security and safety, which is one of the most important aspects of human life and international justice, which is ratified by international conventions and conventions without regard to the nationality of the person Asylum as long as the conditions are available.

We have made clear the difference between this right and other principles and rights that we suspect of the principles and human rights that should be imposed on it at the international level, and then the principles that govern it. As well as in the ordinary Iraqi legislation, and we preceded by looking at the positions of the Arab constitutions of this right, and how the Iraqi

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Revista de Ciencias Humanas y Sociales

Año 35, N° 88, (2019)

Esta revista fue editada en formato digital por el personal de la Oficina de Publicaciones Científicas de la Facultad Experimental de Ciencias, Universidad del Zulia.
Maracaibo - Venezuela

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